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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1948

No. 76

L. D. HARRIS, PETITIONER,

vs.

STATE OF SOUTH CAROLINA

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE
OF SOUTH CAROLINA.

PETITION FOR CERTIORARI FILED MAY 11, 1948.

CERTIORARI GRANTED JUNE 7, 1948.

SUPREME COURT OF THE UNITED STATES

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[fol. a]

IN THE SUPREME COURT OF SOUTH CAROLINA

Appeal from Aiken County

Hon. J. Robert Martin, Judge.

THE STATE OF SOUTH CAROLINA, Respondent,
against

L. D. HARRIS, Appellant

[fol. b]

STATEMENT OF CASE

The appellant, L. D. Harris, was indicted and arraigned at the October 1946 Term of the Court of General Sessions for Aiken County, South Carolina, charged with the murder, by shooting, of one Edward L. Bennett. He was unable to employ counsel and the Court duly appointed Julian B. Salley, Jr., Leonard A. Williamson and Doreey Lybrand, Attorneys, to represent him.

The case was not reached at the October 1946 Term of Court. The trial commenced on January 6, 1947, the first day of a Special Term of Court and concluded January 11, 1947. The Jury found the appellant guilty of murder.

At the close of the testimony for the State appellant moved for a directed verdict upon the grounds set forth in the transcript of record, which motion was refused. Again at the close of all the testimony, the motion for a directed verdict on behalf of appellant was renewed, upon the grounds set forth in the transcript of record, and this motion was also refused; whereupon, appellant was sentenced to death by electrocution on February 28, 1947.

In due time notice of appeal was given, and the case comes to this Court on the transcript of record.

[fol. 1] IN COURT OF GENERAL SESSIONS OF AIKEN COUNTY

THE STATE OF SOUTH CAROLINA

versus

L. D. HARRIS, Defendant

APPEARANCES:

For the State: Solicitor B. D. Carter.

For the Defendant: Julian B. Salley, Jr., Leonard A. Williamson and Dorcey Lybrand.

His Honor, J. Robert Martin, Jr., Presiding.

The jury having been duly drawn and sworn, the following proceedings were had upon the trial:

State's Testimony:

LERoy GUNTER, (white) sworn, testified as follows:

Direct examination.

By the Solicitor:

Q. In consequence of a message you received you went down to the store of Mr. Bennett?

A. Yes, sir.

Q. What did find when you went in?

A. Mr. Bennett was behind the counter groaning and I saw a colored woman coming up the road. That little boy had went down there and got the colored woman and they never had got to the store when I go there and the children were crying, "Daddy, don't cry".

Q. Where was Mr. Bennett?

A. He was laying over behind the counter against the post and a potato sack was lying right up against it.

Q. Was he wounded?

A. He was shot. When I first went in there it looked like he might have been hit, but he was shot in the mouth and blood was streaming down his face.

Q. Was he still alive?

A. Yes, sir; and he told me to rush him to the hospital. He said, "I am dying" and I said, "What's the matter" and

[fol. 2] he said, "A big negro shot me and robbed me" and he died right there. He didn't say no more.

Q. Did he die right then while you were there?

A. Yes, sir; I asked him did he know him and he never made any reply.

Q. Never talked any more?

A. No, sir.

Cross examination relative to same matter.

By Mr. Williamson

Q. What was it he said to you?

A. He said "Take me to the hospital. I am dying. And I said What's the matter and he said a big negro shot him and robbed him.

Q. He never did speak any more after that?

A. No, sir.

Q. Said I am dying and a big negro shot him?

A. Yes, sir.

Q. Rush me to the hospital:

A. No, sir; he said "Rush me to the hospital first and I said, "What's wrong" and he said a big nigger shot me and robbed me."

J. T. MEDLOCK, (colored), a witness sworn by the State, testified as follows:

Direct Examination.

By the Solicitor:

Q. Where do you live?

A. In Graniteville.

Q. Raised down there?

A. No, sir; raised around Johnston.

Q. Been living there sometime?

A. No, sir; ain't been living there but about 10 months.

Q. Do you know L. D. Harris?

A. Yes, sir.

Q. Been knowing him all of his life?

A. Well practically ever since we were play boys together.

Q. You all go around together?

A. Well some.

Q. Do you remember April 28, the Sunday when the Bennetts were killed?

A. I don't remember whether it was April 28, but I remember about it and I heard about it over the radio too.

Q. On that Sunday, did you see L. D.

A. Yes, sir.

Q. What time of day?

A. Around 12 or 12:30.

Q. How did you happen to see him?

A. Well L. D. was over there at my sister's house on the porch, when I was on my way to the store and I stopped by [fol. 3] there a few minutes and went on down to the store and when I came back along there L. D. met me out at the road down there-about 50 yards from my sister's house and went up to my house with me.

Q. And then where did you go?

A. We left my house and went by his house.

Q. Where did you go from there?

A. Went from there on around through by Fox's crossing out to Buggers.

Q. Now on that trip with him, did he have a pistol?

A. Well I seen the pistol after we left his house.

Q. Where did you see it?

A. In his front pocket.

Q. Do you know what kind it was?

A. No, sir; he didn't pull it out there.

Q. Did you say anything to him about having a pistol?

A. Yes, sir; I got after him about it.

Q. What did he say, if anything about it?

A. He said he was afraid.

Q. He wasn't afraid to carry it?

A. Yes, sir.

Q. Did he tell you where he had been with it?

A. No, sir.

Q. Now at the time you saw it, did you know that Mr. Bennett had been killed?

A. No, sir.

Q. It was along sometimes after 12 o'clock when you were talking to him?

A. Yes, sir.

Q. Where did you go after you went to this place at Buggers?

A. We went up to Mary Davis.

Q. Who did you see up there?

A. L. D. wanted to see Wylie Bennett.

Q. That is a colored fellow?

A. Yes, sir.

Q. Did you see Wylie Bennett anywhere up there?

A. Yes, sir; he was there at Mary Davis house—he was on the bench out in the yard.

Q. What happened there if anything?

A. Wylie Bennett wanted to borrow some money from L. D. and L. D. asked me did I have any money and I said, "Yes, I have two or three dollars" and he said, lend me a dollar and I will get a dollar from Mama and give it back to you today.

[fol. 4] Q. Where did you all go then?

A. We went back from there to Wylie Bennett's and from there to Davis and got another half pint of whiskey.

Q. All right, you all drank that up then?

A. Yes.

Q. What else happened about the money?

A. That's all about the money.

Q. Well did you let him have a dollar?

A. Yes, sir.

Q. Where did you go then?

A. Went back to his house and got the dollar.

Q. Well did he say anything to you about where his money was?

A. He told me he got it from his mama and when we got there he got it from his mama, for he told her he owed me a dollar.

Q. Did he say how much money he had at his mama's?

A. No, sir; he didn't say he had none.

Q. Where did you all go then?

A. We went back from there to Wylie Bennett's and from there to Davis and got another half pint of whiskey.

Q. All right, you all drank that up then?

A. Yes, sir.

Q. What became of Wylie?

A. Wylie was with us.

Q. When you got the liquor Wylie was with you?

A. Yes, sir.

Q. What did you finally do with Wylie?

A. I didn't do anything with him. They brought me on back home and put me out and then they went on down the road.

Q. You left them together?

A. Yes, sir.

Q. What time of day was that?

A. That was around 5 or 6 o'clock, late in the afternoon.

Q. Who paid for the liquor?

A. L. D. and I.

Q. How much did L. D. pay?

A. Half of it. I paid 65¢ and he paid 60¢ for a half a pint.

Q. Cost you \$1.25 for a half a pint?

A. Yes, sir.

Q. When is the next time you saw L. D.

A. I think it was on that Monday when he came by my house and I gave him those 22 cartridges.

Q. You gave him some 22 calibre cartridges on Monday?

A. I think it was.

[fol. 5] Mr. Salley: I don't see how that is relevant.

The Court: Unless it is connected up with the circumstances here.

The Solicitor: He volunteered that, Your Honor.

Mr. Salley: There is enough in it already besides going into something irrelevant.

The Court: We are not going into that. Mr. Foreman and gentlemen, that last statement about some 22 cartridges, you disregard that. I am striking that out of the record.

Cross-examination.

By Mr. Salley:

Q. You say you saw L. D. Harris, this boy sitting right here, on the day that the Bennetts were killed—is that right?

A. Yes, sir.

Q. Now I believe it is in evidence that was on April 28, 1946. April to May to June to July, August, September, October, November and December and now it is January—little over 8 months ago. Now can you sit there and swear that it wasn't before twelve o'clock that you first saw L. D. Harris on that Sunday morning.

A. Well I am telling you as close as I can get at it. I didn't just have a watch.

Q. What time did you get to Mary Davis's house that day—the first time you went to Mary Davis?

A. It was around 4 o'clock or 4:30.

Q. Had Mary had breakfast yet that day?

A. I don't know. She should have had.

Q. In other words did you see Mary when you went back there?

A. I don't remember which time it was she came out.

Q. But you went to her house twice?

A. Yes, sir.

Q. And one time she came out?

A. Yes, sir.

Q. Was it the first time you went there or second time?

A. I can't swear which time.

Q. Now was it the first time or second time that it was about 4:30 that you went there?

A. It had to be the first time.

Q. It was about 4:30?

A. Well about 4 or 4:30. I am guessing at it. I told [fol. 6] you that when I first told you.

Q. About 4 or 4:30, about 8 months ago—you think you can estimate it 8 months ago?

A. The time?

Q. Yes.

A. I will tell you the truth. I don't know how long it has been since I was asked the question, for I don't exactly know the time.

Q. Isn't it a fact that down around there at Mary Davis's and practically all of those places down there and I mean all the houses, that the first meal of the day on Sunday, whether you call it breakfast, lunch or dinner, and I believe the people eat just about one meal on Sunday down there?

A. About two.

Q. Well the first meal they eat it about 12 o'clock in the day on Sunday?

A. Yes, sir; 11 or 12 o'clock.

Q. They eat breakfast on Sunday about 11 or 12 o'clock?

A. Well I don't know about everybody.

Q. Well I said almost everybody—that is generally the time for that first meal on Sunday, about 12 o'clock.

A. I don't know about the general time, but that is the way most-colored folks eat.

Q. And if Mary Davis would testify that she hadn't gotten up and hadn't had breakfast when you all came there, then it must have been another time before 4:30 when you all got there.

A. You say she testified she hadn't gotten up when we came there?

Q. I say, if she would testify she *daahn't* gotten up when you all came there it must have been another time before four o'clock!

A. I will say if she hadn't gotten up, she must not have eaten breakfast.

Q. What time did you eat breakfast?

A. About 10:30 or 11 o'clock.

Q. And then you went down to where you saw L. D. Harris?

A. Yes, sir.

Q. You went down to Virginia Matthews', and that is where you first saw L. D. Harris?

A. That wasn't right after breakfast.

Q. Well after you finished breakfast, didn't you go down there?

[fol. 7] A. I don't know if it was right after breakfast, for my wife was cooking dinner when we left to go to the store.

Q. Well if you had breakfast at 10:30 or 11:00 o'clock, she was starting to cook dinner about twelve?

A. I don't remember her starting that early on Sunday.

Q. When you first saw L. D. down there you went down where to Mr. Chicks store?

A. Yes, sir.

Q. And came back down there?

A. Yes, sir.

Q. The first time you saw him, was he already at Virginia's?

A. He was there, when I first saw him.

Q. And then you went down to Mr. Chicks and got some, what?

A. Ice cream and lemons.

Q. Did L. D. ask you to get some ice cream?

A. Virginia asked me to get her a pint of cream for her.

Q. And L. D. didn't ask you for no ice cream?

A. No, sir.

Q. Well you expected Virginia and L. D. to eat the ice cream together?

A. I don't know whether he paid for hers or not.

Q. Then you came back to Virginia's?

A. No, sir; they met me out in the road about 25 yards from my sister's house and we walked on up to my house.

Q. How long does it take you to get dressed and shine your shoes?

A. I was around there a good long time.

Q. About how long?

A. At least hour and a half or two hours.

Q. And then you went from there to L. D. Harris's house?

A. That's right.

Q. And then is that the time that L. D. got some money from his mother?

A. I don't know whether he got the money from his mother the first time or not.

Q. Did you see Carry there?

A. Yes, sir.

Q. And see his mother Mary Bell?

A. Yes, sir.

Q. And how long did you stay there?

A. About 30 minutes.

Q. And then you went from there to Virginia's?

A. Yes, sir.

[fol. 8] Q. Do you know whether or not he got any more from his mother.

A. No, sir.

Q. Now when you saw L. D. that day, I want to know how he looked

Q. And it was there that Wylie Bennett wanted to borrow the dollar?

A. Yes, sir.

Q. He said he didn't have a dollar?

A. He said he didn't.

Q. And you went back to L. D. house?

A. Yes, sir.

Q. And then you all went back and got Wylie again?

A. Yes, sir.

Q. And you got half pint of whiskey?

A. Yes, sir.

Q. And you say he spent 60¢ for it?

A. Yes, sir.

Q. Did he spend any other money that afternoon?

A. We had bought a pint.

Q. 60¢ and \$1.25—that is all he spent?

A. As far as I know,

Q. And that dollar he got from his mother?

A. Yes, sir.

Q. Do you know whether or not he got any more from his mother?

A. No, sir.

Q. Now when you saw L. D. that day, I want to know how he looked—whether he was all dirty or tired or whether he was reasonably fresh and clean or just how he was?

A. L. D. was clean and I couldn't tell a bit of difference in him, than ever before.

Q. He looked perfectly normal?

A. Yes, sir.

Q. Did he look like a man who had taken a cross country walk for ten or 12 miles?

A. I couldn't tell it.

Q. They are accusing him of murdering a man and talking about all the blood—did you see any blood on him?

A. No, sir.

—. What kind of clothes did he have on him?

A. I ain't been able to remember the shirt, but L. D. had on a different shirt from the trousers he had on—he had a light gabba-dine pants, but I don't remember the color of the shirt.

Q. Did he have on any army coat or jacket?

A. No, sir.

Q. Did he have on any army hat?

A. No, sir.

Q. Army pants?

A. No, sir.

Q. Army shoes or clothes?

A. No, sir. He had on suspenders.

Q. Did he look tired?

A. I can't tell.

Q. You couldn't notice that he was in any way tired?

A. No, sir.

[fol. 9] Q. Did he look excited?

A. No, sir.

Q. Did he look in any way excited.

A. No, sir.

Q. Was there anything at all in the appearance of this fellow that was in the least bit out of the way or unusual?

A. No, sir; he didn't act that way around me.

Q. Did you see L. D. with any more money than what you have told us about?

A. Besides the dollar, the only money I saw L. D. with was some change in his pocket. It wasn't so much.

Q. You mean three or four coins or something like that?

A. I don't know exactly how much money he had, but it wasn't so much.

Q. Wasn't any bulge sticking out of his pockets, showing he had lots of coins?

A. No, sir.

Q. You didn't see any ten or 20 or 30 dollar bills?

A. No, sir; I didn't see nary one.

Mr. Salley: No further questions.

The Solicitor: Come down.

SHERIFF PRICE FALLAW, (Sworn) Testified:

By the Solicitor:

Q. Sheriff, do you remember the time that Edward L. Bennett was shot and killed in Aiken County?

A. Yes, sir.

Q. What day of the week did it occur on?

A. On Sunday.

Q. Was that the 28th day of April, 1946?

A. Yes, sir.

Q. What is the first information you had about it?

A. I had just come from Sunday School and I had a call.

Q. What time of day was it?

A. About 10 minutes after eleven o'clock.

Q. The call came from where?

A. From Mr. Jones at the Aiken Hospital.

Q. What did you do?

A. I called the undertaker and then went out to Mr. Bennett's home.

Q. How far is that place from the City of Aiken?

[fol. 10] A. About a mile.

Q. On the Vacluse Road?

A. Yes, sir.

Q. When you arrived at the home, what did you find?

A. Well there was a couple of people shot there and Mr. Bennett was dead behind the counter.

Q. Was Mrs. Bennett there?

A. No, sir. She had been taken to the hospital.

Q. Now Sheriff describe in your own way the building & how large a place it is?

A. Well it was a very small filling station and had an upstairs, where Mr. and Mrs. Bennett lived up stairs.

Q. And they operated a store and filling station downstairs?

A. Yes, sir.

Q. Not a very large store?

A. No, sir; I guess about as long as from here to that dock there and about that wide maybe.

Q. Just describe the scene before you as you walked in the door?

A. Well a little kid was crying and a couple of people were standing on the outside and I went in and saw Mr. Bennett behind the counter.

Q. Sheriff, we have some pictures in evidence—will you show us where the dead body of Mr. Bennett was?

A. Well that is here. The Irish potato sack was right behind the counter and he was lying right where this blood is, with his feet under the counter.

Q. That dark spot is blood?

A. Yes, sir.

Q. What is that?

A. That is a post and window right there.

Q. And the body was lying up against the sack of potatoes?

A. Yes, sir. The head part was right up to the edge of the wall.

Q. Did you see any potatoes there anywhere?

A. Some in a scale.

Q. Did you go to the hospital to see Mrs. Bennett?

A. Just as soon as Mr. George got there and got Mr. Bennett out, I locked up the station and rushed to the hospital. She was dead when I got there.

Q. Was there any weapons in the deceased's pockets?

A. No, sir.

Q. Any money on his body?

A. I didn't find any.

[fol. 11] Q. Was there a money drawer in the counter?

A. Just a home-made drawer.

Q. Was any money in that drawer?

A. No, sir.

Q. Was it open or closed?

A. I think it was about half open. Might have been on the floor.

Q. Was it a kind of home-made box—have a lock on it?

A. Just a home-made box—I don't think any lock was on it.

Q. Did you find any money in the store at all?

A. Just in the room off from the store. There was some money found there.

Q. Did you or some other officers search the place to see if there was any pistol in the place?

A. I looked over the place and couldn't find any.

Q. Find any money?

A. I didn't find it. Mr. Herrington gave me, I think \$15.00, he found in the kitchen.

Q. Was there a pocketbook in his person-bill fold?

A. No, sir.

Q. Was the scale full of potatoes?

A. No, sir; six or 8 pounds I guess.

Q. Well in consequence and as a result of the death of this man and his wife, did you and the other officers make an investigation to ascertain who had committed the crime?

A. Yes, sir.

Q. As a result of your investigation, who did you finally arrest?

A. L. D. Harris.

Q. Where did you find L. D. Harris?

A. Nashville, Tenn.

Q. Now did you have him arrested or arrest him yourself on a warrant charging this crime or not?

A. I swore out a warrant for him for this pistol—for theft of a pistol.

Q. Who went to Tennessee for him?

A. State Constable Thompson and myself.

Q. After you took him into custody and in bringing him home, did you or not talk to him?

A. Mr. Thompson talked to him while I was driving.

Q. Did either of you talk to him about this killing?

[fol. 12] A. No, sir; not on the way home.

Q. Well after he was brought to Aiken and placed in jail, did you or either of the other officers talk to him?

A. After we got the pistol we talked to him.

Mr. Lybrand: Your Honor, at this point the defense would request the Court to allow the jury to retire as we wish to make a motion.

The Court: Go in your room, gentlemen. (The jury retires.)

Mr. Lybrand: The purpose of this request, May it please the Court is that the defendant moves the Court that the admissibility of any alleged confession which the State attempts to introduce in the trial of this case be determined by the Court in the absence of the jury on the ground that irrefutable damage and injury would result to the defendant, should such confession be admitted before the jury and thereafter be excluded by the Court, then, the defendant would be deprived of his life and liberty without due process of law, as guaranteed him by the 14th amendment of the Constitution of the U. S.

The Court: In other words, I assume you are going to attempt to prove a confession or admission against interest?

The Solicitor: Yes, sir.

The Court: And I assume the defense is denying same.

Mr. Lybrand: The defense takes the position that this was not made freely and voluntary.

The Court: All right, go ahead and develop it.

The Solicitor: Your Honor, I, of course, intend to lay the foundation. I think I know what I am doing.

The Court: Well go ahead, while the jury is out.

(Mr. Lybrand then makes a motion to have the witnesses sequestered and the Court allows the motion, whereupon the witnesses, W. J. Thompson, Chief of Police Sprawls and G. R. Richardson were excluded.)

Sheriff Price Fallow resumed the stand in the absence of the jury.

[fol. 13] The Witnesses, Sheriff Price Fallaw, Chief of Police J. M. Sprawls and State Constables W. J. Thompson and G. R. Richardson, testified before the Presiding Judge, in the absence of the jury, substantially in all respects as they did before the jury.

Following the testimony of the officers before the Court, but without the jury, the defendant testified—(before the Court and without the jury.)

L. D. Harris, (colored) The Defendant, was duly sworn, and testified as follows:

Direct examination.

By Mr. Lybrand:

Q. L. D. Harris you are the defendant in this case?

A. Yes, sir.

Q. And you are being tried for murder?

A. Yes, sir.

Q. Now, I believe Mr. Thompson and Sheriff Fallow came up to Nashville to bring you back to Aiken?

A. Yes, sir.

Q. And you had been arrested in Nashville by the officers?

A. Yes, sir.

Q. On the way back to Aiken, did a conversation take place about this pistol?

A. Mr. Thompson asked me where the pistol I had and I told him the pistol I had was home and he said "it isn't there" and I told him if it wasn't there my mother delivered it to Charley Williams, where I had told her to take it to.

Q. And when the question was first put to you, did you deny knowledge of the pistol?

A. I told him I had a pistol, but it was home.

Q. Well now where was that—how long after you left Nashville, did you discuss this matter about the pistol?

A. It was over about Chattanooga.

Q. Was anything else mentioned about the pistol from then on?

A. No, sir.

Q. Did you know what you were arrested for in Nashville?

A. No, sir.

Q. Was a warrant read or shown to you?

A. No, sir.

Q. Well then when you reached Aiken, you got here about what time on Sunday?

A. On Sunday afternoon about 5:30 or four o'clock.

[fol. 14] Q. Where did you go?

A. To the jail.

Q. Now you were put in on Sunday afternoon and then when was the first time that any of the officers talked to you about this Bennett case?

A. Monday afternoon.

Q. About what time?

A. Well it was before they closed out over here, because Mr. Price brought me down to his office—him and the jailor.

Q. Mr. Baker the jailor?

A: Yes, sir.

Q. Tell us what happened there and what time it was?

A. It was about four or five o'clock. He came and told me that the F. B. I. told him I was the one that killed them people with that pistol and I said, "Well that ain't so, for I didn't know anything about it."

Q. Tell us what took place?

A. He sat down and read a little paper. I don't know what it was and he gave me a newspaper to read and I told him I couldn't read.

Q. How long did you stay down there?

A. Not over 15 minutes.

Q. Was that about all that took place on Monday afternoon?

A. Right then.

Q. When was the next time you talked to some of the officers about this case?

A. Monday night, I talked to them in the little office over there about seven or seven thirty.

Q. Who did you talk with on Monday night?

A. I talked with Mr. Price and Mr. Will Thompson and Mr. Baker.

Q. Who else?

A. I don't know the fellow's name.

Q. Another officer?

A. Yes, sir.

Q. How many of them?

A. It wasn't but 4 of them, wasn't but 3 excusing the jailor.

Q. How long did they talk to you on Monday night?

A. Not much over an hour.

Q. Tell us what happened on Monday night when you were over there?

A. They asked me "Did I know who killed Mr. Bennett and I told them I didn't and they said I did know and then they wanted to know where I was at and I told them I came [fol. 15] to my Aunt's house from Johnston and I went over to Will Brown's and stayed there a little while and came

back to my house and I left there and went up to Virginia's and J. T. came along and then I went on back up home and went straight over there.

Q. Now you were telling them about this?

A. Yes, sir.

Q. Were they asking you about it—were they asking you a lot of questions?

A. Yes, sir.

Q. Did they do anything there to influence you in what you were telling them?

A. No, sir; not that Monday.

Q. Now when was the next time you saw the officers?

A. On Tuesday.

Q. What time?

A. I don't know what time—in the afternoon.

Q. How long did they talk to you then and how many officers were there?

A. Mr. Baker, Mr. Price and Mr. Will.

Q. Who else?

A. That was all and that is when I told them about J. T. again.

Q. How long did they talk to you that Tuesday afternoon?

A. Well they called Mr. Ted to bring J. T. over there and they carried me to the cell-block until J. T. got there.

Q. Was anything done or said by them that influenced you on that occasion?

A. No more than I kept telling them I didn't do it and they kept telling me I was a liar, I did do it.

Q. Who told you you were a liar?

A. Well Mr. Will Thompson told me I was lying, I know.

Q. Now that was about all that happened on Tuesday afternoon?

A. Yes, sir.

Q. Now tell us what happened the next time you saw the officers—when was the next time?

A. Tuesday night.

Q. How many officers were there on Tuesday night?

A. Mr. Will and Mr. Price and Mr. Baker and the other tall gentleman—I don't know his name.

Q. How many officers?

A. Four officers.

Q. How long did they talk to you on Tuesday night?
 [fol. 16] A. About good night.

By Mr. Lybrand:

Q. This was in July?

A. Yes, sir.

Q. How long do you think they talked to you that night?
 A. About two or three hours.

Q. Tell us what happened during the course of the evening while the officers were there?

A. Well they first mentioned I did and I told them I didn't know anything about it and they said; "Well Wylie Bennett is going to put it all on you." I said I don't know anything about it and I told them I didn't have but one pistol ball when that happened and I said I didn't have but two over at the trash pile and they told me that was after that. I didn't even know Wylie Bennett until we shot over here at the trash pile.

Q. Where were you sitting on Tuesday night?

A. I was sitting right in the corner and the door opened back and I was sitting like this.

Q. Were you facing the officers?

A. No, sir; one officer was back over here and the rest of them were behind me.

Q. Were the officers in front of you or behind you?

A. One on the side of me and the rest was behind me.

Q. Was the corner in front of you or behind you?

A. Corner was in front of me.

Q. Why were you sitting that way?

A. They told me to turn that way.

The Court: You don't know what officer told you to do that?

A. Well I don't remember what officer it was. They had me scared and I didn't know nothing about and I wasn't paying much attention to it. I was just doing what they told me to do.

By Mr. Lybrand:

Q. How long did you stay in that position?

A. About an hour.

Q. Did anybody lay their hands on you that night?

A. Yes, sir.

Q. Who did?

A. Mr. Will, he hit me on the side of my face and Chief Sprawls.

Q. Who is Mr. Will?

A. Mr. Will Thompson.

[fol. 17] Q. Tell us how that came about?

A. I was there and telling him about that statement what Wylie said and he hit me and said you know you are lying.

Q. How did he hit you?

A. With the back of his hand.

Q. With his palm or his fist?

A. No, sir; with his palm.

Q. How hard did he hit you?

A. Well if I had been standing up, he would have staggered me.

Q. Did he grab you on the shoulder?

A. No, sir.

Q. Did Mr. Thompson stay in the room or go out?

A. After he hit me, he never was in there much more.

Q. Now who else hit you again in there?

A. Chief Sprawls, the one who wrote the typewriter.

Q. What was he doing with the typewriter?

A. He was writing the statement about Wylie Bennett.

Q. Where did he hit you?

A. On the same side of my face as Mr. Will hit me. He was over here and the typewriter was like this and I was facing the corner.

Q. What provoked him to slap you on the face?

A. He said I wasn't doing anything but telling lies.

Q. What happened after Chief Sprawls hit you?

A. He went on and wrote the statement.

Q. How did they ask the questions?

A. They asked me didn't I done it and I told them "no, I didn't know anything about it" and I kept telling them over and over about where I was.

Q. Did they ask you anything about potatoes?

A. Not then.

Q. Ask you anything about snuff?

A. Not then.

Q. Ask you anything about meat?

A. Not then.

Q. That was Tuesday night?

A. Yes, sir.

Q. Now, after Chief Sprawls struck you how much longer did they keep you in there?

A. They kept me until Mr. Will went and got Wylie and brought him back.

Q. After he brought Wylie back, you and Wylie discussed the matter?

A. Yes, sir.

[fol. 18] Q. Then did the officers talk to you after you and Wylie talked?

A. No more that night.

Q. They left you alone?

A. Yes, sir.

Q. I will ask you what was your reaction or how did you feel about being struck by Mr. Thompson?

A. I felt like he was mad and was going to hurt me. I didn't know what he was going to do.

Q. Were you afraid?

A. Yes, sir; I was afraid or I wouldn't have told no lie.

Q. How did you feel after you were struck by Chief Sprawls?

A. I was afraid.

Q. Now is that about all that happened on Tuesday night?

A. Yes, sir.

Q. Now then on Wednesday, did you see the officers again?

A. Yes, sir.

Q. Where?

A. Over in the jail, early that afternoon.

Q. How many officers were there in that room that afternoon?

A. Well Mr. Will, he was standing out there—I don't remember him coming in there not then and Mr. Price and that other large fellow—fellow standing up there with the black jack shaking at me in his hand and Mr. Baker.

Q. Mr. Price Fallow and Mr. Baker?

A. Yes, sir.

Q. And another officer was there?

A. Yes, sir.

Q. Where were you sitting on Wednesday afternoon?

The Solicitor: Your Honor I think the other officers who are not testifying should be in here what he has to say about them.

The Court: I don't know—I would rather leave them where they are.

Mr. Lybrand: We are not trying the officers.

The Court: In other words I am not going to go into the collateral trial of this matter. All I want to know is to come to a definite conclusion of whether it was obtained free and voluntary. Now on the trial before the jury they would be subject to being recalled to contradict him, but at this state and for this purpose I would rather leave it as it is.

By Mr. Lybrand:

Q. What about Wednesday afternoon, was Mr. Baker there?

[fol. 19] A. No, sir; he didn't come there until that night.

Q. Where were you sitting that afternoon?

— With my back to the wall.

Q. With your back to the corner, facing them?

A. Yes, sir.

Q. Tell us what happened Wednesday afternoon between you and the officers?

A. Sit down there and asking me did I do it and I told them no, sir, and shortly after that Mr. Richardson and the other big fellow came in there and Mr. Richardson said, "Nigger, you know you did it" and I said, "No, sir," and the other man, he said, "I will tell you one thing, if you don't say you did kill those people, we will get a rope and rubber hose and you know what we will do" and I turned around and got on my knees and said, "You all do whatever you want" and he told me to get up.

Q. Who was the man that talked to you about a rubber hose? Do you see him in here now?

A. I saw him one time.

The Court: All of you stand up—do you see him?

A. The big one, with Mr. Richardson—the one he called the little man this morning.

Q. Has Mr. Dollard come in—is that the man?

A. Yes, sir; that's him.

Q. That was on Wednesday afternoon and Chief Richardson walked in and this man (Mr. Dollard) walked in?

A. Yes, sir.

Q. What happened then?

A. Mr. Dollard said, "You nigger, when I get through with this rubber hose and rope, I will get something from

you you didn't know you got" and I turned around and got down on the floor and got on my knees and they made me get up. In other words, Mr. Price told me to get up off the floor and I got up and sat down and told them, "Honestly, I don't know nothing about it" and I didn't.

Q. When that occurred, the Sheriff was there?

A. Yes, sir.

Q. Chief Richardson was there?

A. Yes, sir.

Q. And Mr. Dollard was there the man you say made that threat?

A. Yes, sir.

Q. Anybody else in there?

A. Yes, sir; all of them.

Q. Who else was in there?

A. This gentleman there.

[fol. 20] By Mr. Lybrand:

Q. Was Mr. Thompson there?

A. He was outside. In other words he was in here today fellow with a blue shirt.

Q. Is that the gentleman (indicating Mr. Long)?

A. Yes, sir; that's the one.

Q. Did you see any weapons on those officers?

A. Well he had his black jack.

Q. Who did?

A. That big one.

Q. Mr. Long?

A. Yes, sir; just like this motioning it.

Q. He had it out in his hand?

A. Yes, sir.

Q. How far from you?

A. Well he was just sitting there by my side.

Q. Did you make any admissions or not—did you make any statement to them concerning your connection with this crime that afternoon?

A. No, sir.

Q. Was there anything else that happened between you and the officers?

A. No, sir; they carried me back.

By the Court:

- Q. How long were you out there Wednesday afternoon?
 A. About hour and a half or two hours and a half.

By Mr. Lybrand:

Q. They took you back to your cell?

A. Yes, sir.

Q. When is the next time you saw them?

A. Wednesday night.

Q. Did you see Mr. Fallaw alone Wednesday afternoon?

A. No, sir.

Q. Did you see any other officer until that night?

A. No, sir.

Q. What other officers did you see that night?

A. I seed all the officers that night that had been in there all the time.

Q. Now what time of night were you brought out to talk to them?

A. It might have been something around eight o'clock.

Q. Up until this time had you involved yourself in this Bennett shooting?

A. No, sir.

Q. Tell us what happened on Wednesday night—just start at the beginning.

A. Mr. Price got to asking me—

[fol. 21] By the Court:

Q. Was anybody else there but Mr. Price?

A. Some of them there, but wasn't in the room with Mr. Price. They were standing out in the hall.

By Mr. Lybrand:

Q. Go ahead and tell us what happened?

A. Mr. Price got to naming the different places—the way I came to the store and I told him, "No, sir; I didn't. I didn't know even one place from the other."

Q. You say he started naming places?

A. Yes, sir.

Q. Well tell us the conversation that took place between you and how it came about that you gave this statement?

A. Well that is what I am telling. He named the places and drawed some sort of picture and asked me different

questioning and I told him "I didn't know" and I said everything he said is right, I reckon and then he named everything on the counter and then he went back and called Mr. Sprawls and he started writing and he asked me just what he said, I repeated. In other words, I didn't know nothing. I was scared they were going to hurt me or do something to me.

Q. Was any threats made to you that Wednesday night?

A. No, sir; but that big man had said what he would do that Wednesday afternoon, what he would do if I didn't do it.

Q. When you talked to Sheriff Fallaw that night (Wednesday) or on Wednesday afternoon, or night, was anything mentioned about your mother?

A. Yes, sir.

Q. What was that?

A. He told me he was, if I didn't tell him that I did it, that he would have my mother arrested.

Q. What did you do then?

A. I told him "No sir; wasn't no use to have her arrested for something she didn't know about and I didn't either."

Q. Did you tell him something after that?

A. He didn't question me so much that evening about her, but still he told me he would have a warrant issued for her.
[fol. 22] Q. Did you tell him then you were the man who shot those people?

A. No, sir.

Q. When did you tell him that?

A. That night.

Q. What did you tell him that night?

A. He asked me wasn't I the one shot him and I told him, "no, I wasn't" and he said, "You are the one" and I said, "Well I did." I had already told him the truth and if he didn't believe the truth—

Q. If he didn't believe the truth, then what?

A. Do whatever he wanted to do with me.

Q. Did you tell them you were telling the truth when you were giving this statement?

A. No, sir; I didn't.

Q. What did you tell them?

A. I ain't told them anything. Just what was said by Mr. Fallaw. He asked me the questions and I just answered the questions as he said them.

Q. Did you sit there and just dictate to him what to put down?

A. Whatsoever Mr. Price named it. He had done named it one time and whatever he said I just said the same words.

Q. Did you make that statement, or did you say, "Yes or no."

A. I said "No, sir." In other words, he is the one that almost told me everything that was on the statement.

Q. Why did you make that statement that was written down there by Chief Sprawls?

A. Well I was just scared. They had done said what they were going to do to me and I didn't know what they would do.

By the Court:

Q. What had they said they were going to do?

A. They had said they would get a rubber line and they would get something from me that I didn't know I had.

Q. But that is the statement that Mr. Dollard said to you that afternoon?

A. Yes, sir.

Q. And that is the reason you made the statement?

A. That is what it was and the way it was. Mr. Price had mentioned those things and I was just going be what he said.

[fol. 23] By Mr. Lybrand:

Q. The statement that Mr. Fallaw, the Sheriff made to you about having a warrant issued for your mother—did that influence you to make the confession?

A. I told him it wasn't no use. I told him it wasn't no use to have her arrested for something she didn't know about and I didn't either.

Q. Did that have any bearing or influence on you to make you make that statement?

The Solicitor: Don't lead him now.

By Mr. Lybrand:

Q. Was there any connection with that statement by Sheriff Fallaw about having your mother arrested and your statement to him—your confession?

A. No, sir; he could have got her. In other words; they came over to Columbia one Saturday and I told them to go get her, for she didn't do it.

Q. I will ask you this—

The Court: That is your witness now.

By Mr. Lybrand:

—. Did you ask the officers to bring the Bennett children down to the jail?

A. Yes, sir.

Q. Were the Bennett children ever brought down here to the jail?

A. No, sir; told me they didn't need any Bennett children to identify me. They had what they wanted.

Mr. Lybrand: Witness is with you.

The Court: Mr. Solicitor, I don't think any further examination is necessary.

The Court: Anything further, gentlemen, before I dispose of this motion?

Mr. Salley: If your Honor please, we would like, not at great length, but to a certain extent to go into these cases.

The Court: I think I am fairly familiar with that. Gentlemen, I think it is clear in my mind, particularly in the light of the defendant's own testimony. Frankly, I was a little [fol. 24] bit worried until he testified, but from his own testimony, there is no question in my mind, that at this stage, it is my duty to rule on it and I can't, particularly from his own testimony conclude that the statement or alleged statement and confession made by the defendant was obtained by duress or intimidation. It might be some dispute as to the fact, according to his contention and the officer's contention, but that is a question for the jury, in the final analysis, under proper instructions from the Court. Unless I conclude, as I understand it, at this stage of the case, that the statement or alleged confession were not made freely and voluntary—I will allow them in for the jury's consideration, with proper instructions, altho, in fact, there is a conflict according to his contention and the officer's contention, I am going to allow them in and take care of the factual situation when I instruct the jury, that they must pass upon this alleged confession from the stand point of it being freely and voluntarily obtained and if they were to conclude that they were not so obtained, of course,

they must disregard them and they would go out of the case. I am going to let them in at this time.

Mr. Salley: Your Honor, we would like to get clear from your ruling as to the degree of duress to be shown before you as matter of law.

The Court: In other words, I don't think it is a question of any degree. If I were not satisfied in my mind, from the testimony that has been brought out here for my consideration, that he was coerced or acted under any duress to any extent, I think it would be my duty to strike that out and not allow the jury to consider it, but the point I want to bring out is that there is some dispute about that. The officers say they didn't do it and he says they did to it, but I will allow it in, because I am satisfied in my own mind that there wasn't any duress or intimidation or hope of reward. If I was not so impressed, I think it would be my duty to keep it out all together and I would do so. The motion is over-ruled.

[fol. 25] Now while the jury is out, do you want these officers kept out?

Mr. Salley: Yes, sir. We will accept to your Honor's ruling.

The Court: You don't have to do that. Bring the jury back, Mr. Bailiff.

(The Jury returned)

(After the Court ruled that the alleged confession should be admitted in evidence, under proper instructions to the Jury, Sheriff Price Fallaw then resumed the witness stand.)

SHERIFF PRICE FALLAW, Recalled by The State, testified as follows:

Direct examination:

By the Solicitor:

Q. Sheriff, when you were on the stand yesterday, you had related what occurred after this shooting of the Bennetts, and I had asked you a question as to whether or not the defendant, L. D. Harris had made a statement to you or in your presence, after he was put into your custody, when you brought him from Nashville, Tenn.

Mr. Salley: Your Honor we wish at this time to renew our objection on the same grounds as we made before.

The Court: Very good, sir. Mr. Solicitor, you will have to qualify the statement as to it being made freely and voluntary.

Mr. Salley: We would like our objection to run throughout this testimony so that we won't have to interrupt Mr. Carter.

The Court: That is understood.

By the Solicitor:

Q. Sheriff did the defendant L. D. Harris make a statement to you or in your presence concerning the death or cause of the death or who inflicted the wound on the deceased, Edward L. Bennett?

Q. Sheriff where was he at the time that statement was made?

A. Out at the office of the jail.

Q. Is that the room downstairs where people come to see the prisoners and also where the lawyers come in to consult with their clients?

A. Yes, sir.

Q. That isn't a very large room?

A. No, sir; six or seven people can sit in it comfortable.

Q. And you have chairs in there?

A. I think 5 or 6 chairs in there.

[fol. 26] Q. And that was where the conversation you had with Harris was had?

A. It was.

Q. Before this statement was made to you by Harris, did you make any threats against him in any shape or form?

A. I did not.

Q. Did you offer any inducement to make him say anything or to make a statement concerning this killing?

A. I did not.

Q. Did you make him any promise, in the nature of being light on him or promise to give him immunity, if he would make a statement?

A. I did not.

Q. What he said to you and the other officers, in your presence, was it said by him freely and voluntary?

A. It was.

Q. He was not forced to do anything?

A. No, sir.

Q. Sheriff, I believe you put him in jail on Sunday afternoon, 14th of July?

A. Yes, sir.

Q. And do you recall when you first had a conversation with him after he was put in jail—did you see him on Monday?

A. Yes, sir; in the Court House.

Q. Did you talk to him again on Tuesday?

A. I think Tuesday afternoon for a short time.

Q. Did you talk to him Monday night?

A. I believe I did talk to him Monday night for a short time.

Q. Did you talk to him on Tuesday night?

A. No, sir; I went to Langley on Tuesday night to accompany you.

Q. During the day Tuesday, what time did you talk to him?

A. After I had lunch. I don't know.

Q. What other officers were present?

A. Chief Richardson, Chief Sprawls, Will Thompson and Mr. Long.

Q. In any of those conversations that you had with him, was any threats or inducements made to him?

A. No, sir.

Q. Now on Tuesday afternoon, when you saw him, did you talk to him alone at first or in company with the other officers, who you mentioned?

A. With the other officers.

Q. Did he admit the shooting or slaying of Mr. Bennett [fol. 27] when you first talked to him on Tuesday in the presence of the other officers?

A. No, sir.

Q. How long were you and the officers over there Tuesday afternoon?

A. I guess from 1:30 or two o'clock until five or five thirty.

Q. When you talked to him, would all the officers be in there at the same time or some coming in and some out?

A. I think they were coming in and out.

Q. Well on Wednesday what time was it you talked to him?

A. Well Wednesday is Mr. Baker's day off at the jail and I was jailor for him and Chief Sprawls, Chief Richardson and another state constable, I don't remember his name,—we went out, I guess around two o'clock and was back around five or five thirty.

Q. And during that afternoon, did he admit any participation in this killing?

A. No, sir.

Q. Now after these officers left, did you or not, late in the afternoon talk to him again?

A. I didn't talk to him that afternoon. I just sat up on the desk and I locked him back up in the cell and came on out to the office and about 6:30 or 7:00, Mr. Baker came in and I went out there to talk to him again. No one was there but me and Mr. Baker and I told him I was going to swear out a warrant for his mother for transporting this stolen property and he said, "Don't get my mother mixed up in it and I will tell you the truth" and he wanted to talk to me by myself and Mr. Baker got up and went out. He said he didn't want to get his mother mixed up in it and I didn't promise him anything. I said, "It looked like I would have to swear out a warrant for her" and he said he would tell me the truth and he said he left home about nine o'clock that Sunday morning, walking to Aiken and same to the trolley line bed from Renney Park and turned left over to the Vueluse Road and came up to the filling station and when he got to the filling station he went in and had a funny feeling like he never had in his life before and he bought a pack of cigarettes, some bacon and balony and a couple of cans of meat and a package of snuff and then he [fol. 28] decided he wanted some fresh potatoes and then he said Mr. Bennett put a few in the scales and as he went down to pick up some more and as he straightened up, Harris, said he shot Mr. Bennett three times and he heard a lady hollering and he turned to shoot her and she ran and he shot her one time. Said he jumped over the counter and got his pocket book and I said, "which pocket" and he said, "the left one" and he said he got the change out of the drawer and went into the woods and followed the woods all the way to that steep hill and turned down the road by the cemetery and went on to Buggers to a little restaurant and bought a couple of sandwiches and two drinks and he left there and went to Virginia's house and on the way to Virginia's house, he counted the money and it was either \$152. or \$162. and said he got eight or ten dollars in change.

Q. Where did he say he went after that—do you remember?

A. Yes, sir; he said he stayed at the house until Medlock came along and he went back home with Medlock and Med-

lock taken a bath and shined his shoes and they left there and went back to his home and met some girls and he went to Buggers and bought some whiskey.

Q. Did he say anything about meeting up with Wylie Bennett?

A. Not at that time.

Q. After he made that statement to you, did you communicate with any of the other officers?

A. I called the police station for Chief Richardson and Will Thompson. Chief Richardson came down immediately and a few minutes later Will Thompson came in there.

Q. After Mr. Richardson came in did he in Mr. Richardson's presence and in Mr. Thompson's presence either, since both were there repeat his statement in their presence?

A. He repeated the whole statement in Chief Richardson's presence and mine.

Q. Mr. Thompson wasn't there on that?

A. I think he was there on some of it.

Q. Did he say in substance what he had said to you in Chief Richardson's presence, what you have stated here?

A. He told the same story.

[fol. 29] Q. Then later on did Mr. Sprawls come in?

A. Well I couldn't use a typewriter and neither could Chief Richardson and he called Chief Sprawls to take the statement down in writing and Chief Sprawls came in.

Q. Did any other officers come in also?

A. I don't remember.

Q. Then did the defendant make that statement in the presence of Chief Sprawls.

A. He did.

Q. Was the statement made then by him written down and typed by Chief Sprawls in the presence of yourself and Chief Richardson?

A. It was.

Q. Before he signed this statement, after it was written down by Mr. Sprawls was it read over to him?

A. Yes, sir; Mr. Sprawls read it over to him.

Q. Was there any threats made against Harris to induce him to sign it or any promise of reward or leniency or immunity promised him?

A. No, sir.

Q. You didn't promise to be lighter on him?

A. No, sir.

Q: In making the statement and signing that statement was it free and voluntary on his part?

A: It was.

Q: This statement is the one that he signed?

A: Yes, sir.

The Solicitor: It has been identified and we will now offer it in evidence.

The Court: It is understood your objection goes to that statement?

Mr. Salley: Yes, sir.

(Statement referred to introduced in evidence and marked Exhibit #4 W. L. M.)

The Solicitor: Now Sheriff will you read this statement to the jury.

(The Sheriff then reads Exhibit #4—the statement of L. D. Harris to the Jury.)

By the Solicitor:

Q: Now Sheriff the pistol that has been identified here, which I hold, did you exhibit this pistol and show it to him?

A: No, sir.

[fol. 30] Q: He described the pistol or the one you got from Williams?

A: He said Williams had the pistol—Charlie Williams—38 hammerless.

Q: He said that was the pistol?

A: The one that Charlie Williams had.

Q: The one Charlie Williams had was the one he did the shooting with?

A: Yes, sir.

Q: Is this the pistol you got from Charlie Williams?

A: It is.

The Solicitor: We offer this pistol in evidence.

(Pistol introduced in evidence—marked Exhibit #5 W. L. M.)

Q: What time of night did you get through writing that statement up and having his sign it?

A: Around 11:30 or 12 o'clock.

Q: During all that time and the time before the paper was signed, was the defendant treated with proper consideration?

A. Yes, sir.

Q. Was he abused or intimidated in any way?

A. He never was abused while I was there.

Q. You were not there on Tuesday night when they brought Wylie Bennet in?

A. I was not.

Q. You don't know what was said other than what has been told you about that?

A. No, sir.

The Solicitor: All right, cross examine him.

Cross-examination.

By Mr. Williamson:

Q. Sheriff how long have you been a peace officer?

A. About 20 or 22 years.

Q. And didn't you issue a statement that in your 22 years as a peace officer this was the most horrible and cold-blooded murder that you ever had known about.

A. Maybe I had. I don't remember.

Q. Well you were reported in the press as making that statement?

A. Well you can't believe what you see in the papers all the time.

Q. And a lot of stuff that went into the newspapers about this case was not true?

A. There was a lot of it.

Q. You gentlemen was having quite a bit of trouble with some bad crimes at that time?

A. Yes, sir.

[fol. 31] Q. A man named David Garrick had been killed a short time before this happened?

A. Yes, sir.

Q. And I believe he was weighing potatoes out, the same as in this case?

A. Yes, sir.

Q. David Garrick operated a store in the City of Aiken?

A. Yes, sir.

Q. Well when this terrible crime occurred out here, it gave you a great deal of concern and all the officers?

A. Gave us a lot of worry, I know that.

Q. And you determined and resolved did you not to try to settle this crime?

A. To try to clear it up, yes, sir.

Q. Well Sheriff, I will ask you, if you think today that you have cleared it up?

A. Yes, sir.

Q. Which one of these statements that was made by the defendant do you believe—this one here or the other one where he put it on Bennett?

A. I don't know anything about that one.

Q. I am sorry I thought you knew about the other one?

A. No, sir; I wasn't there.

Q. What time did you receive the call in reference to this killing?

A. I had been to Sunday School and it was about 10 minutes to eleven.

Q. Who called you?

A. Spurgeon Jones.

Q. Well in consequence of that call, where did you go?

A. I called Mr. George and went to the police station, picked up Mr. Gregory and went up to the store.

Q. Is he a police officer of the City of Aiken?

A. Yes, sir.

Q. Now who was there when you arrived there?

A. There were two men and these little kids.

Q. Who were the two men?

A. I think one who testified yesterday, Mr. Guner.

Q. Who was the other one?

A. I don't recall.

Q. How many children were there?

A. I remember one little boy—he was crying and I didn't pay no attention to the rest of them.

Q. Do you remember his name was Danny and you talked to him?

A. Might have been. I said "Hush crying son" and he said, "Somebody shot my daddy."

[fol. 32] The Solicitor: How old was he?

A. About 3 years old.

By Mr. Williamson:

- Q. Don't you know he was older than that?
- A. No, sir; I don't.
- Q. You talked to him at great length?
- A. I told him to hush crying.
- Q. What did he tell you?
- A. He said a big black negro shot him and robbed him.
- Q. And where did that child tell you he was when the robbery occurred?
- A. I don't believe he told me where he was.
- Q. Didn't he tell you he was in the store and got under the counter when it took place?
- A. He could have said it. I don't remember.
- Q. Well you know that child made that statement?
- A. No, sir; I wouldn't swear to it.
- Q. When you talked to him about who had shot his father tell me whether or not you didn't ask him to tell how he was dressed?
- A. I asked him how big he was and he pointed to Mr. Gregory, the policeman.
- Q. Is Mr. Gregory here today in the Court House?
- A. No, sir.
- Q. Stand up, Mr. Hartley—is he as big as Mr. Hartley?
- A. Yes, sir, about.
- Q. And the child said what?
- A. Said a big black negro had shot and robbed my daddy.
- Q. And he said the man who shot his daddy was as big as Mr. Gregory and pointed him out?
- A. He did.
- Q. How did he tell you that man was dressed?
- A. I believe he said he had on soldier clothes.
- Q. Didn't you ask him, child that he was, if the soldier had a bill on his hat?
- A. No, sir.
- Q. Who asked that boy that?
- A. I don't know, sir.
- Q. Did you hear the child say he was wearing an o-er-seas cap?
- A. No, sir; he might have said it, but he didn't tell me that.
- Q. Do you know Mr. Bennett's brother-in-law?
- A. Yes, sir; I think I know him.

Q. Do you remember seeing him there that morning?

A. No, sir; not that morning.

[fol. 334] Q. Well what else did that child tell you?

A. If he told me anything else, I don't know it.

Q. Did that child tell you that the man who came in there asked his daddy to let him see his pistol?

A. No, sir.

Q. Well how long were you in that store?

A. Until Mr. George came there and I helped put him in the ambulance and then I rushed him to the hospital. I guess maybe 5 or 10 minutes.

Q. You helped pick the dead man up?

A. Yes, sir.

Q. How big a man was Mr. Bennett?

A. Just a slim man.

Q. Had you ever seen him before?

A. If I did I don't remember it.

Q. About how heavy was he?

A. I would say about 145 or 150 pounds.

Q. Would you think a person was stretching it, if you were told he weighed 200 pounds?

A. I know it would be stretching it.

Q. It is your opinion he weighed about 150 pounds?

A. Yes, sir. He wasn't no big man.

Q. Where the poor man was lying was almost on his back?

A. He was kind of scotched down, with his head like this (indicating).

Q. Wasn't his head more inclined that way?

A. About like this. His shoulder and head was up against that (indicating picture) and he was lying by this sack and his feet under the edge of the counter.

Q. Sheriff, if that man had sat down on the floor and had leaned back at that angle, he would have been in the position you found him, wouldn't he?

A. No, sir; if he sat down his feet would have been across this way, but he was laying on this side and his feet was sticking under the counter.

Q. He was laying on his side?

A. Practically like this (indicating).

Q. On his left or right side?

A. On his right side, with his shoulder and head up against the wall.

Q. That blood was on the floor?

A. Yes, sir.

Q. The front portion of his body was very bloody wasn't it?

A. I don't think it was so much.

Q. Wasn't there a pool of blood in the floor?

A. I guess it might have been, after we picked him up. We might have dragged it along the floor.

[fol. 34] Q. Did you go into any other portion of the house to look for evidence of blood?

A. Not at that time. Mr. Gregory went into the kitchen. I may have went into the kitchen, I don't recollect.

Q. Well it worried you a lot and that happened on April 28th?

A. Yes, sir.

Q. And what day of the month was it that Harris told you this story about having killed him?

A. July 17th.

Q. It had been then three months, lacking 10 days from the time he had been killed?

A. Something like that?

Q. Sheriff there had been a clamor from the public to bring the man to justice who had committed the crime?

A. Yes, sir.

Q. As matter of fact, Mr. Bennett's first wife was lodged in jail and she stayed there for days and days?

A. Yes, sir.

Q. And she was questioned relentlessly about it?

A. Quite a-bit.

Q. Well who else was put in jail?

A. I can't call his name. There was another young fellow put in jail. A white man.

Q. Stayed there quite a while?

A. Yes, sir.

Q. And you questioned him and questioned him?

A. Quite a little bit.

Q. And both of them told you over and over again they had nothing to do with it?

A. Yes, sir.

Q. Well on Monday after these people were killed do you remember that one, Wylie Bennett was arrested and put in jail?

A. I can't say whether it was Monday or not. I remember he was put in the police station and I talked to him.

Q. And he denied knowing anything in the world about it?

A. Yes, sir.

Q. Didn't he tell you he didn't even know this man Harris?

A. No, sir; he didn't say he didn't know Harris.

Q. Well Sheriff as time went on with this thing, you weren't making any progress, were you?

A. We were still working on it, running down every clue possible.

Q. And people were raising old dan tucker about this crime?

A. Well they had quieted down to a certain extent.

Q. But before they quieted down, a mass meeting was [fol. 35] held in this Court House and it was largely attended?

A. Yes, sir.

Q. And didn't men who had been convicted of violating the law contribute money for the conviction of the man who did this crime?

A. Yes, sir.

Q. And they raised a lot of money?

A. I think they pledged or subscribed about \$2,000, but we got only about \$1300.00.

Q. You were told to go the limit and get the man?

A. I wouldn't have to be told that.

Q. Not only the officers of the law, but hundreds of people talked to you?

A. I wouldn't say hundreds.

Q. Don't you know that some of the people who were arrested in this case were arrested because of public clamor?

A. No, sir; I don't.

Q. Just routine investigation?

A. That's right.

Q. You conferred with Mr. Thompson about it?

A. We talked about it.

Q. And he was assigned to you as a special agent to do nothing else but work on this case?

A. That's right.

Q. And that had not been his duty before that time—weren't officers from Columbia sent down here?

A. Yes, sir.

Q. And you talked it over with them at great length?

A. Yes, sir.

Q. And didn't the suggestion come from you that if a

larger reward could be offered, that you might make some headway?

A. I did not.

Q. You spent a lot of sleepless nights worrying about it?

A. I did.

Q. Well were you looking for a man who had been in the army or some man who was in the army at the time?

A. Well not no special person out of the army or in the army.

Q. On the day these people were killed did you bring a large man dressed in soldier clothes down to be looked at by this little child?

A. No, sir.

Q. Were you present when he was brought in?

A. I don't remember.

Q. You don't remember seeing a large man wearing a soldier's uniform that day brought in?

A. I can't tell you. I saw so many people that day I can't remember now who I saw.

[fol. 36] Q. Were you ever told about that?

A. I don't remember a thing about it.

Q. Well when that child told you what he did, and you conferred with these officers over and over again, you were looking for a large black man, weren't you?

A. We were looking for the murderer.

Q. You were looking for a large, dark man?

A. Well we had that in mind, but this little kid, two or three years old couldn't give us anything definite.

Q. You talked to Mr. Gunter, didn't you?

A. Yes, sir.

Q. And what did Mr. Gunter tell you?

A. He said Mr. Bennett told him he had been shot and robbed by a negro.

Q. What kind of negro?

A. I just told you what he told me.

Q. Didn't he say he was shot and robbed by a large negro?

A. Mr. Gunter didn't tell me that.. Mr. Bennett might have told Mr. Gunter that.

Q. You didn't ask him about it?

A. No, sir.

Q. You saw the statement that was in the paper?

A. I guess I read it.

Q. You didn't make any investigation based on what Mr. Gunter told you?

A. I was working on what Mr. Bennett told Mr. Jones.

Q. But you paid no attention to what Mr. Bennett had told Mr. Gunter just before he died?

A. Well Mr. Gunter told me he said he was robbed and killed by a negro. He didn't say it was no large man. He only said it was a negro who killed him and robbed him.

Q. When was the first time you decided to locate a man named L. D. Harris?

A. On some information we had.

Q. Now what officer first supplied that information?

A. No officer supplied that information to me.

Q. Well when you got the information, did you discuss it with any officer?

A. I discussed it with Mr. Hartley and then later on I discussed it with Mr. W. J. Thompson, the State Constable.

Q. As a result of your discussion, what did you do?

A. We went down to Graniteville and talked to Annie [fol. 37] Brown and from there went to Bowe's Construction Company's superintendent and talked to him.

Q. The information you got over there was the truth wasn't it?

A. As far as I know, yes, sir.

Q. You would believe those people, wouldn't you?

A. I wouldn't have no right to disbelieve them.

Q. Well after you talked to the Bowe's Construction people, what did you decide to do?

A. I decided to swear out a warrant for Harris for stealing this pistol. (Indicating pistol.)

Q. Who issued the warrant?

A. Mr. Taylor, the Magistrate.

Q. And you were basing your warrant upon information obtained from Annie Brown?

A. And others.

Q. Well who were some of the others?

A. Well this lady over at Ridge Springs. She gave me the information.

Q. Who was this lady?

A. Emma Kneese.

Q. I am going to be kind enough to you and her, Sheriff not to ask you what the basis of that was. So it was the information supplied by Annie Brown—is Emma Kneese a white lady?

A. Yes, sir.

Q. Mrs. Emma Kneese caused you to start looking for Harris?

A. Yes, sir.

Q. And she lives where?

A. Ridge Springs, S. C.

Q. How did you happen to get in touch with the Authorities in Nashville?

A. I sent them a telegram—sent the Sheriff a telegram asking him to pick up Harris for me, for I had a warrant for him, for a stolen pistol.

Q. And that was what day of the week?

A. I guess that was Thursday.

Q. Did you get a message back from him, if so what was it?

A. Yes, sir; on Friday. He said he had him arrested and in jail.

Q. Well in consequence of the message, what did you do?

A. On Saturday morning, Thompson and myself went to Nashville, Tenn., for him.

Q. What time did you reach Nashville?

A. I guess about 5 or 5:30 that afternoon. We went to the sheriff's office.

[fol. 38] Q. You didn't go and talk with this man Harris then?

A. No, sir.

Q. You made your plans to leave the next day?

A. Next morning early, around three o'clock we went to the jail for him.

Q. Did you wake him up?

A. I did not, no, sir; he was up and dressed.

Q. When he came out of the jail at Nashville, did he know who you were?

A. I don't know.

Q. Did he know who Mr. Thompson was?

A. I can't answer that.

Q. Did you two gentlemen tell him who you were?

A. I don't remember.

Q. Did you or Mr. Thompson read the warrant to him?

A. No, sir.

Q. You put him in the automobile?

A. Yes, sir.

Q. By that time he knew who you were?

A. I guess so.

Q. Did he talk to you Sheriff about owing a man some money?

A. He talked to Mr. Thompson about his clothes and stuff.

Q. I am coming to that in a minute. Did he talk to you about having gone away from here owing a man some money?

A. No, sir.

Q. You gentlemen were going to leave with him from the jail and go direct to Aiken, S. C.?

A. From Nashville we came be a restaurant and had some breakfast and bought him some and he asked us to go by his house and get his suit case.

Q. He is the one that suggested going by his boarding house to get his suit case?

A. Yes, sir; he asked the authorities up there about it and they promised him they would get his clothes.

Q. Well did you gentlemen hesitate about going down to get his suit case?

A. We did not.

Q. Who got that suit case?

A. Mr. Thompson went in and got the suit case.

Q. Did Mr. Thompson look in it?

A. Not then, no, sir.

Q. But he looked in that suitcase before Harris ever did?

A. I can't say that Mr. Thompson ever looked in it himself.

Q. You didn't look in it?

A. I never have.

Q. And then you started the long trip home?

A. Yes, sir.

Q. Who was the first person to ask Harris about that pistol?

[fol. 39] A. Mr. Thompson.

Q. Had Harris said anything about a pistol up to that time?

A. No, sir.

Q. What did he ask him?

— Well I heard him ask him about a pistol.

Q. What did Harris tell him?

A. Said he had a pistol.

Q. Did he later on that trip tell Mr. Thompson where the pistol was?

A. He first said he owned a .32, where you stick bullets in

the side and then stated on he admitted he had this Smith & Wesson pistol.

Q. Where did he tell Mr. Thompson that pistol was?

A. Over at Charlie Williams.

Q. Well when you made your investigation later on, you found out it was the truth?

A. Yes, sir.

Q. What time did you gentlemen arrive in Aiken?

A. I judge about four o'clock on Sunday afternoon.

Q. How was Harris dressed while making the trip?

A. I can't say, I didn't pay that much attention to him.

Q. Did he have on soldier clothes?

A. I wouldn't say.

Q. Did you and Mr. Thompson find any soldier apparel in his suit case?

A. I didn't make any search of his suit case.

Q. Well was this man allowed to sit in the automobile freely?

A. He was on the back seat by himself. I believe he had handcuffs on him and slept part of the time.

Q. He had two little pitiful hats?

A. I don't know about that.

Q. And you had him at that time for stealing a pistol?

A. No, Sir.

Q. Hadn't said a word to him about killing anybody?

A. No, sir; we wanted to find the pistol first.

Q. That man rode from Nashville to Aiken with handcuffs on him?

A. He did.

Q. When you got to the jail door he still had them on?

A. I think he wore them on him to the office.

Q. Were you or Mr. Thompson afraid of him?

A. I wasn't and don't think Mr. Thompson was.

[fol. 40] Q. Who carried the suit case in?

A. I think Mr. Thompson did.

Q. When did you read that warrant to him?

A. I don't remember if I ever read it to him. He signed his waiver up there and I don't know as I ever read it to him.

Q. You weren't even present when the waiver was read to him?

A. I saw it. We turned it over to the Sheriff up there and he hooked it to that waiver.

Q. Was he allowed to look in his suit case when he got to Aiken?

A: He could have if he had asked to.

Q: Were you tired and worn out?

A: I was.

Q: Mr. Thompson was tired and worn out?

A: I don't know about him.

Q: And you don't know what condition the defendant was in?

A: I don't know.

Q: It took you nearly all next day to get over the trip?

A: No, sir; we went over to Johnston next day for that pistol.

Q: What time of day was it you went to bed the next day?

A: I don't know. This other shooting occurred and we were up a good deal.

Q: That was very disconcerting to you?

A: Yes, sir.

Q: That was on Saturday night, when you were in Nashville, that J. O. Ussery was shot down and killed?

A: It was.

Q: That upset and disturbed you?

A: It worried me.

Q: And it upset and disturbed Mr. Thompson too?

A: You will have to ask him.

Q: Well Sheriff did you devote your attention next day to the shooting of Mr. Ussery or go to Johnston looking for the pistol?

A: We went to look for the pistol.

Q: And you went where this man told you and you found it?

A: Yes, sir.

Q: Told you the truth about that?

A: Yes, sir.

Q: When was the first time you talked to him after you put him in jail?

A: That same Monday, I had him in my office in the after-[fol. 41] noon.

Q: Who was present when you talked to him?

A: I think Mr. Hartley was there.

Q: Stand up, Mr. Hartley—that is the gentleman there?

A: I think he was.

Q: Who else?

A: I can't be positive about anybody else.

Q: How did you talk to him?

A: Very short time.

Q. When you talked to him, didn't you say, "Harris, the F. B. I. has told me that you are the man that killed the Bennetts"?

A. I did not.

Q. What did you read to that man from a piece of paper?

A. I didn't read anything.

Q. What did you ask him about?

A. I asked him about killing the Bennetts.

Q. What did he tell you?

A. Said he didn't do it.

Q. How many times did you ask him that?

A. On about a dozen.

Q. Mr. Baker was there?

A. Couldn't have been.

Q. Didn't he join you in the questioning?

A. I can't say that.

Q. Well Sheriff you know you are not the only one that asked him questions!

A. I know I did. I can't say about the others.

Q. You told him over and over that he was the man who done it?

A. I asked him wasn't he the man who done it.

Q. And when he told you he wasn't the man, didn't you say, "You are the man that did it"?

A. I could have.

Q. Sheriff he didn't tell you that he did it?

A. Not then, no, sir.

Q. And then you took him back to the jail house and left him?

A. Yes, sir.

Q. When did you go back to see him?

A. I think Monday night..

Q. What time?

A. After supper, probably around seven o'clock.

Q. Still good day light?

A. I am just guessing—I don't know what time it was.

Q. Who was present over there?

A. Mr. Thompson, Chief Sprawls, Chief Richardson—I am not positive about that, but I know Mr. Thompson and [fol. 42] Chief Sprawls was there.

Q. And wasn't Mr. Baker there too that Monday night?

A. Yes, sir.

Q. What time was it that night when you gentlemen left there?

- A. I guess I stayed there maybe an hour.
- Q. Did you all leave together?
- A. I don't know.
- Q. Well who talked to him in the jail that night besides you?
- A. I didn't talk to him that night at all.
- Q. You were tired?
- A. No, sir; Mr. Thompson and Chief Sprawls and Chief Richardson was talking to him.
- Q. What did Chief Richardson tell that man?
- A. He was asking about the killing of the Bennetts.
- Q. Didn't he say, "Boy you killed them people and don't sit there and ~~say~~ it?"
- A. I wouldn't say he said that. He asked him didn't he kill them.
- Q. When he asked him didn't he do it, what did he say?
- A. He said he didn't.
- Q. What did Mr. Thompson ask him?
- A. Same thing and he denied it.
- Q. What did Mr. Baker ask him?
- A. I don't think Mr. Baker asked him anything.
- Q. Well you talked to him—all of you for an hour?
- A. I didn't talk to him.
- Q. And you don't remember when you left those other gentleman there or not?
- A. I am not positive, but I think I had a telephone call.
- Q. And you left them there with this man?
- A. I wouldn't be positive.
- Q. Did you go back to the jail on Monday night?
- A. I did not.
- Q. When was the next time you saw him?
- A. Tuesday afternoon about one or two o'clock.
- Q. Who went with you then?
- A. I don't recall; but I think Mr. Thompson, Mr. Richardson and Chief Sprawls and Mr. Long, but I am not positive.
- Q. Will you point out Mr. Long in here?
- A. There he is.
- Q. How long did you stay there that afternoon?
- A. Maybe hour and a half.
- [fol. 43] Q. Who talked to the defendant then?
- A. Well Chief Sprawls and Mr. Thompson.
- Q. Well did he admit he killed the Bennetts that afternoon?

A. He said he did not.

Q. Didn't ask him about anything else on Tuesday except the killing?

A. No, they just asked him about that.

Q. Well was he arrogant or did he act ugly?

A. When I was there he did not.

Q. Was he respectful to you and all of them?

A. When I was there he was.

Q. Q. But they were questioning him all the time?

A. Yes, sir.

Q. But when you left there Tuesday afternoon he still denied it?

A. Yes.

Q. What time did you go back?

A. I didn't go back that night. I went to Langley.

Q. Didn't you tell Mr. Carter that you stayed there from one thirty to five o'clock or five thirty?

A. I said I stayed there about an hour and a half.

Q. And those other gentlemen were there all that time?

A. Yes, sir.

Q. Now while you gentlemen was talking to the defendant a lot was said to him about the trolley car line, wasn't it?

A. I didn't mention it to him, and didn't hear anybody else mention it to him.

Q. Who talked to him about Kalmia Hill?

A. He was the first one that talked about Kalmia Hill.

Q. Who talked to him about fat back and snuff or bacon?

A. If they talked to him about that it was while I wasn't there.

Q. You never heard them ask him about that?

A. No, sir.

Q. What were they talking about all that time?

A. About killing the Bennetts.

Q. When was the next time you went there?

A. Wednesday afternoon about two or two thirty.

Q. Who went back Tuesday night?

A. I heard Chief Sprawls, Mr. Thompson and Mr. Long.

[fol. 44] Q. How long did you stay Wednesday afternoon?

A. Until about five o'clock.

Q. Who was present then?

A. Chief Richardson, Chief Sprawls and another constable, I think Mr. Dollard.

Q. Is he present here now?

A. I don't know.

Q. What did they ask him about on Wednesday afternoon?

A. They were still asking him about killing the Bennetts and he said he didn't do it.

Q. All of them questioning him?

A. I didn't even mention a thing to him. I sat up on the desk and Chief Sprawls and Chief Richardson and this other gentleman from the constabulary were talking to him.

Q. And they weren't asking him Sheriff, weren't they accusing him?

Q. They asked him did he do it.

Q. And didn't they say, "You did it"?

A. I don't recall that.

Q. Over and over again?

A. Yes, sir.

Q. And that went on from two o'clock to five thirty in the afternoon on Wednesday?

A. I think J. T. Medlock made his statement then.

Q. And what J. T. Medlock told you gentlemen in that jail in this man's presence, he backed him up in it?

A. I wasn't in there where the statement was being made. I was out in the hall.

Q. You mean you didn't listen to that?

A. I listened to it read over.

Q. What did they do to Medlock?

A. Medlock was just a witness, we didn't have any case against him.

Q. What L. D. Harris told about Medlock, which resulted in you going and getting him, was the truth?

A. He didn't tell us anything about Medlock as I know of.

Q. Why did you go get him?

A. We learned Medlock was with him.

Q. Didn't Harris tell you he was with Medlock?

A. No, sir; I don't recall.

Q. Didn't these gentlemen who were questioning him ask him where he was on that Sunday that these people were killed?

A. Yes, sir.

[fol. 45] Q. And didn't he tell you where he was?

A. He said he was down at Buggers.

Q. And didn't he tell you he was with J. T. Medlock?

A. In the afternoon.

Q. Well I don't care when it was, he told you that?

A. Yes, sir.

Q. And then you went and got Medlock?

A. Yes, sir.

Q. And you found out that Harris told you the truth about it?

A. Yes, sir.

Q. Well who else did you bring in there?

A. Didn't bring 'nò one else in there that afternoon, I don't think.

Q. Didn't bring Wylie Bennett in there that night?

A. I don't know about that. I told you that a while ago.

Q. Who left when you got through talking to him on Wednesday?

A. I locked him up in jail and we all left.

Q. But after you had been out of the jail a while you went back?

A. Yes, sir; I was the jailor for Mr. Baker and he came over to the office about seven or seven thirty and I went back to the jail with Mr. Baker.

Q. And you talked to Harris again, you and Mr. Baker?

A. Mr. Baker didn't, I did. He was sitting there.

Q. And he would ask him something?

A. No, sir; I was doing the talking.

Q. And he told you over and over again that he didn't do it?

A. Yes.

Q. And then when he kept denying that he had anything to do with it, you said, "It looks like I will have to swear out a warrant for your mother and put her in jail for transporting stolen goods"?

A. I did not. I said, "It looks like I would have to swear out a warrant for your mother for stolen property". I never said anything about putting her in jail, and he said, "Don't get my mother mixed up in it. I will tell you the truth": I didn't make him any promises.

Q. I didn't say you made him any promises.

[fol. 46] A. You said I said I was going to put her in jail.

Q. Well I apologize—what did you say?

A. I said, "It looks like I will have to swear out a warrant for your mother" and he said he would tell me the truth.

Q. And didn't he get down on his knees?

A. No, sir; I didn't promise him I would swear out a warrant or wouldn't swear out a warrant.

Q. Well you don't generally promise a man that. He said, "Please don't do this to my mother?"

A. He said, "Don't get my mother mixed up in this thing".

Q. Said, "She doesn't know any more than I do about it".

A. No, he didn't say that, he said, "Don't get her mixed up in it and I will tell you the truth".

Q. But you never have sworn out a warrant for her?

A. No, sir; I have tried to locate her, but I haven't found her.

Q. What did he tell you?

A. He told me he got up about nine or nine thirty, dressed and put his pistol in his pocket and came to Reney Park to the Trolley bed line, right on up to the crossing and turned left on that crossing and went on the Vaucluse Road and turned and went to the filling station.

Q. He said, "You know that steep hill" and your reply to him was, "Yes".

A. He said that on his way back.

Q. And who had been talking to him about that steep hill?

A. I had never mentioned about no steep hill to him.

Q. You didn't hear whether anybody else had or not?

A. Not in my presence.

Q. Well did he tell you about seeing this child in the store?

A. No, sir; he didn't say nothing about seeing a child.

Q. Did he tell you anything about asking that gentlemen that day to let him see his pistol?

A. No, sir.

Q. Did you ask him where Mrs. Bennett was when he left there?

A. No, sir.

Q. Did you tell him that you believed he was dressed in soldier clothes and pulled them off?

A. I did not.

[fol. 47] Q. And while he was talking to you, before he gave you that statement, didn't he ask you to go get those children and bring them down and let them look at him?

A. He did not.

Q. You don't know whether he asked somebody else that or not?

A. I can't say about that.

Q. Q. Well Sheriff, who had talked to you about how much money was missing out there?

A. Hadn't no one told me. They didn't know how much they had.

Q. No one ever reported any certain amount of money having been stolen?

A. I received \$15.00 that came out of the pantry in the kitchen.

Q. Well when you got through talking to this man, didn't he tell you this: "I have told you that I didn't do it and it looks like you don't want the truth and I will just tell it the way you want me to!"

A. No, sir.

Q. He didn't tell you that?

A. No, sir.

Q. What did he tell you about the trash pile trip?

A. He didn't tell me about the trash pile trip, until he hold Chief Sprawls in this statement.

Q. Well when this man got through talking to you, who did you call?

A. Chief Richardson and W. J. Thompson.

Q. Did they come down to the jail?

A. Chief Richardson came right down and Mr. Thompson came in about 10 or 15 minutes.

Q. What did you tell Chief Richardson?

A. I told Chief Richardson that he had made a confession and I asked Harris to repeat what he told me to him and he did.

Q. Before Harris said anything and when you said that Harris had decided to confess what; if anything, did Mr. Thompson say?

A. I never heard him say anything.

Q. Never heard him ask a question, did you?

A. No, sir.

Q. Never did, did you Sheriff, after that?

A. I did not.

Q. As matter of fact, Mr. W. J. Thompson was very nervous there that night?

A. I wasn't paying any attention.

[fol. 48] Q. Didn't he walk in and out there several times?

A. I don't remember.

Q. When did Mr. Sprawls get there?

A. After he went over the same story he told me, he told

Chief Richardson about it and then we called Chief Sprawls to take it down on the typewriter.

Q. You weren't asking him then, if he had killed the Bennetts?

A. He was saying he did.

Q. Chief Richardson wasn't asking him if he had done it?

A. No, sir; he was telling Chief Richardson that he did.

Q. No one was bull ragging him then?

A. No, sir.

Q. He was talking then and everybody else was listening?

A. Yes, sir.

Q. Sheriff how many of you stayed there throughout the time that Mr. Sprawls wrote that statement down on that typewriter?

A. I we were all there. I don't remember who was there. I know Chief Richardson and Chief Sprawls was there.

Q. When was it this man admitted that he went to the trash pile?

A. To Chief Sprawls when he was taking down that statement.

Q. You believed that?

A. I didn't know anything about the trash pile.

Q. You believe it now?

A. Well the witnesses testified they went there.

Q. And do you believe that as much as the rest of the several things in that confession?

A. I do.

Q. Well about what time of morning was it then?

A. It was right around midnight.

Q. Who took that man out of that jail then?

— I sent him to Columbia by Chief Richardson and some of the other constables. I thought it was best. I tried to use precaution.

Q. You didn't want him in the Aiken County jail after he made a confession under those circumstances?

A. I didn't want no trouble.

Q. And you have no proof that he killed Garrett?

A. No, sir.

Q. And you know he didn't shoot Mr. J. O. Ussery?

A. No, sir.

Q. And you know he didn't shoot Mrs. Weisberg?

A. No, sir.

[fol. 49] Q. And you know he didn't hold up that liquor store?

A. No, sir.

Q. But you got him out of there in the wee small hours of the morning?

A. It was rather late.

Q. How did the officers look when they took him out?

A. Nothing unusual.

Q. How did he look?

A. Just like he does now, only he was fatter then. He has lost some weight.

Q. He wasn't dodging and ducking?

A. No, sir; didn't have to.

Q. He had signed a confession then?

A. Yes, sir.

Q. You were leaving him alone and taking him to Columbia?

A. Yes, sir.

Mr. Williamson: That's all.

By the Solicitor:

Q. You say when the defendant signed the confession he was heavier weight than he is now?

A. Yes, sir; his face was fuller—seems to have lost weight.

Q. What about his color?

A. Yes, sir; he is lighter now. He was blacker then.

Q. In other words, you keep a man in jail and he gets lighter?

A. Yes.

Q. When you had him in that office, did you give him as comfortable a seat as the others sat in?

A. Yes, sir; all the same seats.

Q. That is where attorneys go to talk to clients?

A. Yes, sir.

By Mr. Williamson:

Q. How much would you estimate that Harris weighed at that time?

A. I don't remember saying—I just know his face isn't as full now.

Q. Well how much would you consider he weighed at that time?

A. Well I will guess at it, if he will stand up.

Q. Stand up.

A. I will say he weighed 150 or 160 pounds.

Q. Did he appear to be any shorter then than now?

A. No. He might have grown since then—about the same size.

Q. You never did measure this man?

A. No, sir; and never weighed him.

[fol. 50] Q. If somebody produced some records to the effect that he weighed 136 pounds, you wouldn't deny it?

A. No. I wouldn't know.

Mr. Williamson: All right, sir.

SHERIFF PRICE FALLAW, (recalled) by the State testified:

By the Solicitor:

Q. Sheriff, something has been said about a reward. I want to ask you if a reward should ever be given, would any officer whatsoever share in that reward?

A. No, sir.

Q. Some question was asked about the little boy called "Danny" and the inference is that he is away. Do you know the size of the little boy and his age?

A. Well he was a little boy, about so high and I was informed by Mr. Bennett's brother-in-law, Mr. Boarden, he was three years old.

Q. And he wasn't summoned because he was too little to testify?

A. Yes.

Q. And the other two children, a boy and girl, upon your investigation, I will ask you this—did you or not find that they were not in the house and could give you no information and that is the reason they are not here?

A. No, sir; they said they were out at the hog pen.

Q. And they are small children?

A. Yes, sir.

The Solicitor: Any questions, gentlemen?

Mr. Salley: No questions.

G. R. RICHARDSON, A Witness for The State, recalled, testified as follows:

Direct examination.

By the Solicitor:

Q. Mr. Richardson what official position do you hold with the State?

A. Chief of the Constabulary.

Q. Working under the Governor's office?

A. Yes, sir.

Q. You have several men working with you and under you?

A. Yes, sir.

Q. Do you remember the time of the killing of one Edward L. Bennett?

A. Yes, sir.

[fol. 51] Q. In consequence of any communication had between you and the county office and the Governor's office, did you begin an investigation into this killing?

A. Yes, sir.

Q. Did you make an exhaustive investigation of the case?

A. Yes, sir; in connection with the local officers.

Q. Do you recall when you first saw the defendant, L. D. Harris?

A. Yes, sir.

Q. How long after the homicide before you saw him?

A. It was a little more than 90 days. It was July 17th.

Q. And where was he when you first saw him?

A. In the county jail.

Q. Did you personally and in company with other officers interrogate him in reference to this killing?

A. Yes, sir.

Q. What day of the week was it, if you remember, that you talked to him first?

A. I believe it was Wednesday, 17th of July.

Q. Where was he when you talked to him?

A. In the office at county jail.

Q. Do you remember what other officers were there with you?

A. I don't recall which ones were in the office the first time I talked to him, but I do know most of the men that were in and out during the interrogation.

Q. Just go ahead and state in your own way to the Court and jury what occurred on the first occasion you saw him?

A. Well he had been in jail 2 or 3 days before I saw him and several of the men were here besides the Sheriff and his men and Chief Sprawls and several of my men and some half dozen officers were in the county jail during the afternoon that we talked to him.

Q. And in talking to him, did you make any threats against him or were any inducements offered to him or anything done to intimidate him to get him to make a statement?

A. No, sir.

Q. Any promise or immunity or leniency made to him?

A. No, sir.

Q. When you first saw him on Wednesday afternoon, did he admit then that he had killed the Bennetts?

A. No, sir.

Q. During that afternoon, how long did you stay there?

A. I don't think over an hour, probably not that long.

[fol. 52] Q. Did anyone at all in your presence or in your hearing or knowledge do anything improper to him in order to induce him to make a statement?

A. No, sir.

Q. Was he treated with proper consideration by you gentlemen?

A. Yes, sir.

Q. Was there anyone there that used a weapon or displayed any weapon of any kind to intimidate him?

A. No, sir.

Q. Anything like a stick or rubber hose or any reference made to it?

A. No, sir.

Q. You say he denied then that he had anything to do with the killing?

A. Yes, sir; he had made a statement to someone that I had knowledge of accusing another negro, but he did not make that statement to me that afternoon.

Q. That afternoon he did not make any reference at all to the accusation towards the other negro?

A. No, sir.

Q. Did he give you any information about the other negro that afternoon?

A. No, sir.

Q. After you had been there—well you say he denied it, were you called back?

A. Called back by Sheriff Fallaw.

Q. Sheriff Fallaw called you back, about what time?

A. I think it was nine or nine thirty and I came back to the jail.

Q. Where was the defendant then?

A. He was in this front office, he and the Sheriff.

Q. That is in the office they usually have for consultation purposes in the jail?

A. I would think so, only office on the ground floor.

Q. Where was the defendant when you went in there?

A. He was sitting in one chair and the Sheriff in another.

Q. During the afternoon was he sitting against the wall or standing up?

A. Sitting in a chair.

Q. At any time was he facing the corner of the wall?

A. No, sir.

Q. This night, now, just go ahead and state in your own way what the situation was—who was there, first?

A. When I arrived Sheriff and Harris was there.

[fol. 53] Q. Did he make a statement in reference to this killing at that time, just answer yes or no?

A. Yes, sir.

Q. Before he made that statement to you was there any threats made against him?

A. No, sir.

Q. Was any promise made to him of immunity or leniency?

A. No, sir.

Q. Did you offer any inducement whatsoever to him to get him to make that statement?

A. No, sir.

Q. What he said, if he said anything, was it free and voluntary on his part?

A. Yes, sir.

Mr. Salley: I object to that—whether it was voluntary or not, Your Honor, would be a question of his will.

The Court: I think it would be proper for him to say whether or not it was made free and voluntary. That is a conclusion, that is true, but that is the proper form, as I understand it of qualifying him.

By the Solicitor:

Q. In other words, you say there was nothing done to him to intimidate him or threaten him or promise of reward to cause him to make a statement?

A. No, sir.

Q. What he said, was it said willingly on his part, freely and voluntary?

A. Yes, sir.

Mr. Salley: Just a minute—whether it was willing or not, I submit that is a conclusion.

The Court: I think it is proper.

By the Solicitor:

Q. Go ahead and tell what took place—what he said?

A. At that time, the Sheriff had called me and also asked for Mr. Thompson and the Sheriff made a casual remark.

Q. In the presence of the defendant?

A. Yes, sir; he said "That L. D. had decided to tell the truth" and Mr. Thompson hadn't come then, but in a very few minutes, Mr. Thompson did come and in the presence of the Sheriff and Mr. Thompson and myself, he made a full statement of his activities that day of the killing.

Q. Did he admit or deny it?

A. He admitted killing the Bennetts.

[fol. 54] Q. After he made that statement was it thereafter, very soon, reduced to writing?

A. Yes, sir.

Q. Chief Richardson, I show you a paper consisting of 2 pages, marked Ex. 4 and ask you to look at this paper and state whether or not that is the statement he made and was reduced to writing at the time?

A. Yes, sir.

Q. Who did the typewriting of this?

A. Chief Sprawls.

Q. After it was reduced to writing, did Mr. Sprawls read it over to the defendant in your presence?

A. Yes, sir.

Q. After it was read over—I note here on the paper some interlineation of a word "head" and after that the letters "L.D". Do you know anything about that?

A. Yes, sir; it was put in there before he signed it. He had left out the word "head"—speaking of Mr. Bennett's head, and that was inserted.

Q. And did you and Price Fallaw the Sheriff witness that signature?

A. Yes, sir.

Q. About what time of night was that paper signed, do you recall?

A. That was close to eleven o'clock.

Q. And then did you leave the jail?

A. Yes, sir.

Q. And left the defendant there with the Sheriff?

A. No, sir; Mr. Dollard and I carried the defendant to the penitentiary.

The Solicitor: You may cross examine him.

Cross examination.

By Mr. Salley:

Q. So Chief, when you say this was free and voluntary, this statement he made, you have no knowledge of your own of anything that was said or done to this man from the time he was arrested in Nashville early on Sunday morning before this until the Wednesday afternoon?

A. That was the first time I saw him.

Q. So of your own knowledge, you don't know a thing that was done or said to him during that time until Wednesday afternoon?

A. No, sir.

Q. And he denied it?

A. Yes, sir; he didn't admit it.

Q. Well now he not only didn't admit it, he denied it, didn't he?

[fol. 55] A. Well I don't recall how insistent he was that he didn't, but throughout the course of my investigation he did not admit it.

Q. Did he say anything when he was asked?

A. There was lots of questions asked him, Mr. Salley, other than, "did you do it."

Q. Now that is what I am getting at. Tell the jury some of those other questions?

A. Well to describe his activities and things he had did and other things.

Q. Now you weren't interested so much in what he was doing at some other time, as you were interested in what he was doing when he came up to kill these people—isn't that the main thing you were interested in?

A. Of course, we were investigating the killing.

Q. And weren't questions similar to this asked him: "Didn't you come up the trolley line road?"

A. I don't recall very many distinct questions as to the route.

Q. I asked you questions similar to that?

A. Well questions like that might have been asked him.

Q. Don't you know that questions like that were asked him? As to "don't you know you went up and down such and such a road."

A. I don't know about that.

Q. Wasn't he asked, "Didn't you go in that store and ask to buy some potatoes?"

A. I don't recall.

Q. Did you ask him any questions like that?

A. I didn't ask him any questions like that.

Q. Tell us what you did ask him?

A. I don't recall everything I asked him.

Q. No, I don't imagine you do Chief and that is why I am asking you the type questions you asked him.

A. Well usually in talking to a negro or anybody else.

Q. I am not interested in other negroes, but in L. D. Harris and I am interested in what took place while you and L. D. Harris were together and he was being cross examined at this time. Now can we confine it to that?

A. I think we can.

Q. I want to know if you can remember the questions [fol. 56] pretty close to the questions and words used—I want to know the type of questions?

A. Well as well as I remember we asked him about his associates and whereabouts that day and questions of that kind.

Q. Then he told you where he had been that day, didn't he?

A. Well he might have mentioned one or two places.

Q. Didn't he tell you he was with J. T. Medlock that day?

A. Yes.

PROCEEDINGS IN RE REMARK MADE BY SPECTATOR.

(At this point a spectator uttered a remark and the following took place.)

Mr. Salley: Your Honor, I object to a statement made like that by a spectator in the presence of the Jury.

(N.B. The remark was not heard by the stenographer, hence it is not in the record, at this point.)

The Court (Addressing the Jury): Did any of you gentlemen hear that statement?

A Juror: I heard part of it. (Several jurors stated the same thing.)

The Court: Mr. Sheriff take that man and put him in jail.

(The spectator was put in jail by the Sheriff.)

The Court: I am asking you again, if any of you gentlemen heard that remark?

(One or two of the jurors stated that they heard the last part of it.)

The Court: That was in reference to the epithet that he attached to it?

The Court: Gentlemen, suppose you go to your room for a few minutes.

(The Jury retired.)

The Court: I expect you had better state into the record, Mr. Salley, what you heard him say:

Mr. Salley: The part of the statement which the spectator made that I heard, was "A son of a bitch like that." I would like some of the gentlemen that were sitting over there near him to testify as to what they heard.

(Note: The spectator who made the remark was sitting in one of the seats in the Grand Jury Box, which was across the court room from the Petit Jury, trying the case.)

The Court: The only thing I caught was the "son-of-a [folly 57] bitch" part. I was sitting closer to the witness trying to hear the witness and I heard the talking and it didn't attract my attention until he used that word.

Mr. Salley: Well, I don't know what he said before that and I don't know who he was talking about. He might have been talking about me or the Chief or the defendant, but I would like to know what was said and I think possibly some of these gentlemen may have heard it.

The Court (Addressing a person:) You were right there—did you hear it? Come around and be sworn.

By the Court:

J. B. MARTIN (white), sworn, testified as follows:

The Court: Mr. Martin, I would like for you to state so that we can get it into the record—by the way, you are a reporter for the Augusta paper?

A. Yes, sir.

Q. Did you hear the statement made by a spectator sitting in the Grand Jury box.

A. I did.

Q. Will you state what it was?

A. I just happened to look in that direction as he started talking to someone—looked like it was Constable Long sitting behind him and the spectator said, "They shouldn't try a son-of-a-bitch like that."

The Court: Any questions you gentlemen would like to ask him?

By the Solicitor:

Q. Mr. Martin, that is all you heard said?

A. Yes, sir.

Q. And the man was sitting across the Court room from where the Petit Jury was sitting?

A. Yes, sir.

Q. In the Grand Jury box, across the room from the Petit Jury?

A. Yes.

Mr. Salley: No questions.

W. C. LONG (white), sworn by the Court, testified:

By the Court:

Q. Mr. Long, I believe you are a member of the State Constabulary?

A. Yes, sir.

[fol. 58] Q. Were you sitting in the Grand Jury box within a seat or two of this spectator who made a remark in the presence of the Court?

A. Yes.

Q. Do you know what that man's name is?

A. I understand his name is Floyd.

Q. Do you know where he lives?

A. I think he lives near Wagener.

Q. Did you hear the remark he made, if so what was it?

A. He said, "We are wasting some mighty good money trying a son-of-a-bitch like that."

The Court: Any questions you gentlemen would like to ask him?

By Mr. Salley:

Q. I would like to know if Mr. Long knows the business or occupation of Mr. Floyd?

A. No, sir.

Q. Do you know what he used to do?

A. If it is the man I think he is, he used to be a State Highway Patrolman.

Q. He is not now?

A. No, sir.

The Solicitor: Your Honor, I would like to make this statement myself. At the time the statement was made by the spectator that has been referred to, I didn't hear a word of it. I was listening to the witness testifying and I didn't know what had been said until it arose here in the way it has.

The Court: Gentlemen, there is nothing for me to rule on.

MOTION FOR MISTRIAL

Mr. Salley: The defendant at this time makes a motion for a mistrial upon the ground that the statement referred to was made in the presence of the jury by a former official of the State of South Carolina. That such statement whether heard in its entirety by the jurors or not, still the portion which they did hear would carry the implication and allow them to surmise and conjecture upon the portion of the statement which they did not hear and that in either event, the right of the defendant has been damaged as to his obtaining a fair trial by the jurors selected to hear this case and to allow these jurors to pass upon this case, after hearing the statement or portion of the statement that they said they heard would deprive the defendant [fol. 59] of that which was guaranteed to him by the 14th

Amendment of the U. S. Constitution, which guarantees to him that his life, liberty and property will not be deprived of him, except by due process of law. That the statement of the spectator is no part of the evidence or facts that this man should be tried upon and that the statement made by this man can't help but have some influence on the mind of the jurors.

The Court: Gentlemen, I don't think that I would be warranted in granting the motion. That is a hazard that any trial is subjected to. Of course, as to the Court dealing with the individual is a matter aside from this case. The only thing I can do is what I am going to do, as I understand and conceive it my duty to do and that is to fully instruct that jury, as I am going to do when I bring them back, in reference to that and I asked that jury three times as to what they did hear and they said only the latter part. Some of them said nothing and some said "the latter part" which was "a son-of-a-bitch like that" according to the statement. Now of course, as we see it, the outburst of a spectator or by-stander is no part of the trial and is not evidence in the case. As I say, that is a hazard that can come up in any trial and I don't believe I would be justified, gentlemen, in declaring a mistrial, on what you heard, Mr. Salley; and as taking the statement as you heard it and as the jury says they heard it, as you say that could have referred to the Court or Attorneys.

Mr. Salley: I didn't say it could have referred to the Court, Your Honor.

The Court: Or anybody else, as far as that goes. Even taking it at its face value, as heard by Mr. Martin or Mr. Long, who was sitting closer to him than anyone else, I don't think I could be justified even if I concluded that the jury heard all of it. He has no official connection with the case. He is nothing more than any other spectator sitting in the Court room and because some spectator conducts [fol. 60] himself in a manner that might be prejudicial, unless I should allow such to continue, I don't believe that I would be justified in granting a mistrial. Bring the jury back.

(The jury returned.)

INSTRUCTION TO JURY

Mr. Foremen and gentlemen of the jury, in reference to that incident that occurred just before my sending you out of the room, I would say this. Of course, you understand, gentlemen, that under oath, you are to try this case by the law given you by this Court and the evidence as you heard it on the witness stand. That is your solemn obligation under your oath and you are to let nothing as to any demonstration or remark by any spectator or anyone in attendance on this Court influence you in bringing in a true verdict. Your duty and my duty is to ascertain what the truth of this case is and arrive at a verdict under the law as I give it to you and from the evidence as given to you by the sworn witnesses from the witness stand. Now gentlemen I caution you about that and you will disregard anything you may have heard by a spectator and you will bear that in mind continuously throughout the remainder of this trial. You may proceed, Mr. Salley, with your cross-examination of the witness.

G. R. Richardson then resumed the stand.

Cross-examination.

By Mr. Salley:

Q. Now, let's see where were we. I believe we were talking about the questions asked the defendant in your presence?

A. Yes, sir.

Q. Now he was asked where he had been that day?

A. That is one of the questions, yes, sir.

Q. Was he asked did he go to the Bennett store that day?

A. I don't recall asking him that.

Q. Might he have been asked that?

A. He could have been.

Q. And he could have been asked if he went up a certain road?

A. Sure he could.

Q. And he could have been asked how much money was there?

A. Well he could have. There is lots of questions possible.

Q. What I am trying to get at Chief is this. Isn't that the [fol. 61] type of question that was asked him—wasn't he asked that type of question?

A. I wouldn't say that.

Q. Well can you tell us the type he was asked?

A. Well I said preliminary questions that I would ask most any defendant—might not be concerned directly to the case entirely and I ask most any defendant lots of questions, preliminary questions of a routine interrogation. I might ask him a lots about his age and family and work and things like that and I might not. You might ask a hundred questions that you wouldn't remember definitely.

Q. Certainly, now when you got on the stand we asked you certain preliminary questions as to what's your name, your job, etc., and then we get down to the meat of it, or we try to?

A. Yes, sir.

Q. Now after the preliminary questions I want to know the questions that were asked when you got down to the meat of it—what type of questions were they?

A. I asked him about where he was on the 28th of April and the best I can remember none of his answers impressed me so much to recall any definite answer that he made, other than the fact that he mentioned about being in Buggers or Graniteville, probably and mentioned 2 or 3 negroes he might have associated with.

Q. Well was he asked anything about the crime?

A. I don't remember asking him the direct question about whether he killed the Bennetts.

Q. Well who else was there—did anybody else question him in your presence?

A. Well there was some questions asked him—I don't recall distinctly. I think it was mentioned about his accusation against this other negro.

Q. Was he accused of the crime while you were there?

A. Well I don't know of any. I don't remember.

Q. Was he accused of the crime while you were there?

A. Well I don't know of any. I don't remember.

Q. Well now, Chief, a case as important as this—let me ask you this question; didn't you designate Mr. Thompson [fol. 62] to spend all of his time on this case?

A. Yes, sir-ree.

Q. When this man was here you didn't accuse him of it?

A. I don't say as we did or didn't because he knew what he was arrested for.

Q. Now wait a minute. I object to that. The testimony shows that the warrant was never read to him and he was never told and the only thing he knew was he was actually arrested.

The Court: I don't know what the witness is basing that on. You have to testify to what you know of your own knowledge.

By Mr. Salley:

Q. What are you basing that on?

A. Well I thought L. D. left here shortly after the crime was committed.

Q. Now wait a minute—you don't know that of your own knowledge and you don't know any of the facts and circumstances surrounding it.

A. What do you mean "Facts and circumstances?"

Q. Whether or not he left here or why he left and any reason as to that is purely hearsay on your part.

A. Well of course he had not admitted the crime at that time when I first saw him. He admitted it a few hours after that.

Q. Do you know what he was arrested for?

A. Yes, sir.

Q. What?

A. He was arrested for killing the Bennetts.

Q. Did you see the warrant?

A. No, sir.

Q. If Sheriff Fallaw and Will Thompson, your deputy, say he was arrested for stealing a pistol, would you deny that?

A. He might have been arrested for that, too.

Q. Would you deny that he was arrested on a warrant accusing him of stealing a pistol?

A. At that time he might have been arrested for stealing.

Q. Do you know under what warrant he was brought back from Nashville, Tenn?

A. No, sir; I don't.

Q. And you say when you were there you can't say he was accused of it or anybody ask him if he had committed the crime?

A. I don't recall definitely asking him did he kill the Bennetts. I didn't ask him that question.

[fol. 63] Q. Do you remember any questions that was asked him?

A. I have told you several questions.

Q. Where he was and preliminary questions?

A. Yes, sir.

Q. Was that all that was asked him?

A. No, sir; I don't think it was but that was about what I asked him.

Q. Just wanted to know where he was that day?

A. Yes, sir; because he had been in custody several days and I didn't think it was proper for me to ask him the questions concerning the case.

Q. You didn't think it proper to question him about this case?

A. Oh, yes, sir.

Q. What did you say about it not being proper?

A. He had been in custody for several days before I saw him and I thought it was proper for me to speak to the negro and look at him and hear him talk, but I didn't go into details with him as to why he killed them.

Q. Did anybody go into details of that?

A. I don't know for I wasn't in the room so long.

Q. Well your visit to him didn't amount to anything much?

A. Well he didn't admit anything to me.

Q. Did you or anybody in his presence or your presence tell L. D. who you were?

A. That time, I don't know. Later on Sheriff told him who I was. I do know that Sheriff told him later on in the evening.

Q. You say you weren't there quite an hour?

A. I am sure I wasn't in the room 20 minutes. I was at the jail probably an hour.

Q. Who else was in there while you were there?

A. First trip to the jail Mr. Dollard, Mr. Long and Mr. Morse, I think.

Q. Will you gentlemen please stand up—you gentlemen that are here?

A. I think that afternoon probably all of us was either in the Court House or around the jail.

Q. That was the middle of July and pretty hot?

A. I don't remember the temperature.

Q. Most of these men didn't have on their coats?

[fol. 64] A. Some of them might have been in their shirt sleeves.

Q. Do you recall who were in their shirt sleeves?

A. I don't recall. I am pretty sure Mr. Dollard had his coat on and myself. I am not sure about Mr. Gaines and Mr. Morse.

Q. Was Chief Sprawls there that day?

A. I don't recall.

Q. He was there that night?

A. Yes, sir.

Q. Do you recall whether Chief Sprawls had on his coat?

A. No, sir; I don't recall.

By the Solicitor:

Q. While you were in there was there at any time an over crowded condition of that room, so as to make it uncomfortable or unbearable in there?

A. No, sir.

Q. Was the defendant given a comfortable place and seat as the officers were?

A. Yes, sir.

Q. Was there at any time while you were over there any display of weapons or pistols or black jacks around that negro?

A. No, sir.

The Solicitor: That will do.

CHIEF SPRAWLS testified before the Jury as follows:

Direct examination.

By the Solicitor:

Q. Chief, you are the Chief of Police of the City of Aiken?

A. Yes, sir.

Q. Do you recall the time Mr. and Mrs. Bennett were killed?

A. Yes, sir.

Q. Occurred on Sunday morning?

A. Yes, sir.

Q. Thereafter, did you with the officers of the County and State make an investigation of this case?

A. Yes, sir.

Q. It covered a long period of time?

A. Yes, sir.

Q. Did you interview from time to time various people?

A. Yes, sir.

Q. As a result of investigations, finally the defendant L. D. Harris was put in jail?

A. Yes, sir.

Q. Others, of course, had been put in jail before he was?

A. Yes, sir.

Q. Something has been said, in the course of the testimony, that the first wife of Mr. Bennett and some man was in jail?

A. Yes, sir.

Q. And finally they were released?

A. Yes, sir.

Q. The defendant was put in the Aiken jail about the 14th of last July?

A. Yes, sir.

[fol. 65] Q. Did you talk to him after he was put in jail?

A. Yes, sir; as well as I remember I first talked to him on Monday night for awhile and Tuesday and Wednesday.

Q. Chief, I will ask one other question before I go into that. Did you or not see the bullet that was extracted from the body of Mr. Bennett?

A. Yes, sir.

Q. Dr. Brooks performed the autopsy and got the bullets out?

A. Yes, sir.

Q. How many were cut out of Mr. Bennett?

A. Two.

Q. Then what did you do with these bullets for the purpose of making tests?

A. They were sent to Washington to the F. B. I., for making investigation in the laboratory.

Q. After this pistol was recovered that was also sent up there?

A. Yes, sir.

Q. And finally you received a report from the Bureau at Washington?

A. Yes, sir.

Q. You have no witness from the F. B. I. as a result of their tests?

A. No, sir.

Q. As matter of information will you state whether or not the tests that were made was of such a nature that evidence could be presented.

Mr. Salley: We object now.

The Court: No, sir; that would not be competent.

The Solicitor: All, right. You don't want to go into that. I thought you did.

Q. Chief, were those bullets sent back from Washington?

A. Yes, sir.

Q. How many did you send up there?

A. Three.

Q. Two bullets extracted from the body of Mr. Bennett?

A. Yes, sir.

Q. Look at that and tell me if that is one you sent?

A. Yes, sir.

Q. Do you know what became of the other one?

A. No, sir; I don't. It was turned over to the Court House.

Q. What kind of bullet is that?

A. 38 short.

Q. Was that the proper kind of cartridge for this pistol?

A. Yes, sir.

Q. A pistol this size which is a 22, wouldn't carry a bullet [fol. 66] of that size?

A. No, sir.

Q. Now, Chief, I will ask you if you talked to him on Monday?

A. Yes, sir; Monday during the late afternoon or night. I didn't talk to him so much on Monday.

Q. Then on Tuesday did you talk to him at length?

A. Yes, sir.

Q. In company with who?

A. Mr. Baker and some of the State's officers, Mr. Thompson, Mr. Dollard and Mr. Long and quite a number of us would talk to him from time to time.

Q. That was the day this negro Medlock was brought down there?

A. Either Medlock or Bennett. We had several witnesses we confronted him with. I don't remember which it was.

Q. Did you officers question the defendant at length Tuesday?

A. Yes, sir.

Q. Were you down there on Tuesday night also?

A. Yes, sir.

Q. In the course of examination that you all were engaged in questioning him; you were present a great part of the time?

A. Yes, sir.

Q. Was any threats or promises made to that man?

A. No, sir.

Q. Was he induced or intimidated in any way to make a statement?

A. No, sir.

Q. Did he or not admit or deny the crime on Tuesday?

A. He denied it. On Tuesday he said that Wylie Bennett killed them.

Q. Did he say that Wylie Bennett killed them?

A. No, sir; he just implicated Wylie Bennett. Said he let him have his gun and he said he was messed up.

Q. Wylie Bennett was brought in Tuesday night?

A. Yes, sir.

Q. You all had Wylie Bennett in the City jail for a little while?

A. Yes, sir.

Q. You all held him in jail and questioned him at length for many days?

A. For several days, until we could check up on the statement he had made.

Q. After you completed the investigation and examination of him you released him?

A. Yes, sir.

Q. Now the defendant did not admit he was the man who [fol. 67] committed the crime on Wednesday afternoon?

A. No, sir.

Q. When was it you first learned after your visit on Wednesday afternoon, that he had made a confession?

A. About ten or ten thirty I was called to the jail.

Q. Do you recall who was there?

Q. A Sheriff was there and the defendant and Chief Richardson and Mr. Dolkard and several were around the jail and the defendant and I and the Sheriff were in the office talking to him, getting his statement.

Q. Did he make a statement there?

A. Yes, sir.

Q. Was he threatened in any manner?

A. No, sir.

Q. Was he given any promise or induced in any way to make a settlement?

A. No, sir.

Q. Was it free and voluntary on his part?

A. Yes, sir.

Q. After he made his statement did you reduce it to writing?

A. Yes, sir.

Q. Look at this—exhibit #4 and see whether or not that is the paper he signed at that time?

A. Yes, sir.

Q. I believe you probated the signature of Mr. G. R. Richardson who swore the fact he saw him sign it along with Sheriff Fallaw?

A. Yes, sir.

Q. I notice here an interlineation in pen—who did that?

A. I did.

Q. Who wrote the initials "L. D"?

A. Harris did.

Q. And the word head was inserted?

A. Yes, sir.

Q. Did you read it to him after you wrote it on the typewriter?

A. Yes, sir.

Q. Then he signed it?

A. Yes, sir.

Q. Was he promised, persuaded or threatened to make him sign it?

A. No, sir.

Q. He did it freely and voluntary?

A. Yes, sir.

Q. Was this man accorded every courtesy there?

A. Yes, sir.

Q. At any time within your knowledge or hearing was he mistreated in any way, shape or form?

A. No, sir.

Cross-examination.

By Mr. Lybrand:

Q. Chief this confession or this paper that you identified [fol. 68] there was written out on Wednesday night?

A. Yes, sir.

Q. About what time of night was that?

A. I would say when we finished must have been 11 or 11:30.

Q. What time were you called down to the jail?

A. About ten or something like that.

Q. Were you there until L. D. was taken out of the jail?

A. Yes, sir.

Q. Could have been beyond midnight?

A. Yes, sir.

Q. And you were from then o'clock until beyond midnight writing out those two pages of a statement?

A. I don't know exactly the time. That is all I did was to go down there and write it. I wouldn't say exactly to the minute.

Q. But you were busy during that entire time talking with L. D.?

A. Yes, sir.

Q. And other officers were talking to him too?

A. No, sir.

Q. You were the only man talking to him?

A. The Sheriff and I was talking to him.

Q. These other officers were in and out of the room, passing back and forth?

A. Well not necessarily—they were on the outside.

Q. You also had taken this statement from him on Tuesday night involving Wylie Bennett?

A. Yes, sir.

Q. And that was on into the night when that statement was taken?

A. Yes, sir.

Q. Chief, you told counsel that you had not used any means of intimidation to make him sign this statement—is that correct?

A. Yes, sir.

Q. Did you on Tuesday night there when this statement was made concerning Wylie Bennett, did you slap this boy?

A. No, sir.

Q. Were you there when Mr. Thompson did something—made some physical contact with him?

A. I didn't see him.

Q. You did not see that?

A. No, sir.

Q. Well, Chief, were you there when he was questioned, facing the corner, with the officers to his rear?

A. No, sir.

Q. I will ask you if you have any finger print proof identifying this man as being connected with the Bennett slaying?

A. No, sir.

Q. Did your finger print expert go out and make finger prints investigation on this?

A. He did.

Q. And you have no such record?

A. No, sir.

Q. Now talking of records—I believe you have an F. B. I. record of Wylie Bennett?

A. Yes, sir.

Q. How many cases are listed on that record?

A. Quite a number.

Q. Would you say 20 or 25?

A. I would say in that neighborhood.

Q. How many states are included in that record?

A. I know in South Carolina and Florida.

Q. What about Georgia?

A. May have been.

Q. You investigated this Bennett killing?

A. Yes, sir.

Q. Did you at any time interview the Bennett children?

A. Yes, sir.

Q. Did you talk to the little boy who is about 4 years of age?

A. Yes, sir.

Q. How old would you say that boy is?

A. I don't remember—he is a small boy.

Q. Small boy but intelligent boy?

A. The only day I talked to him was on Sunday of the killing...

Q. That was April 28th?

A. Yes, sir.

Q. What did that little boy tell you—with reference to the identify of the slayer of his father and mother?

A. I talked to all of the children and to say specifically what he said I am unable to tell you.

Q. Do you deny that he told you that a big negro did the shooting?

A. I don't remember. I have heard that, but I don't know where I got it from.

Q. Did the boy talk intelligently to you there on that day?

A. I remember talking to the girl more than I did to the boy.

Q. But you did talk to the boy?

A. Yes, sir; I talked to all of them.

Q. You understood that boy was an eye witness?

A. Yes, sir.

Q. Do you know where he is now?

A. I understand he is in Iowa or somewhere.

[fol. 70] Q. He is not a witness in this case?

A. No, sir.

Q. And has been away from here for sometime?

A. Yes, sir.

Q. When this slaying took place you were in the midst of another very interesting investigation too?

A. Yes, sir.

Q. That was a colored man named Garrick who operated a store in the edge of Aiken?

A. Yes, sir.

Q. When was he killed?

A. About a week before. I don't remember the date.

Q. And what was he apparently doing at the time he was shot?

A. Weighing potatoes.

Q. He was weighing Irish potatoes when he was killed?

A. Yes, sir.

Q. Did he have them on the scales?

A. They were in a bag.

Q. Did he have a scale?

A. I don't remember.

Q. And there was quite a bit of similarity between the Garrick slaying and the Bennett slaying—both of them were merchants?

A. Yes, sir.

Q. And both seem to be selling Irish potatoes at the time they were killed—isn't that correct?

A. Yes, sir.

Q. And yet long after the Bennetts were killed then there was a shooting in another store in Aiken?

A. Yes, sir.

Q. I believe that was Mr. J. C. Ussery who was shot?

A. Yes, sir.

Q. And that was the same day this boy was brought back from Nashville?

A. Yes, sir.

Q. And that was two or three months after the Garrick slaying and the Bennett slaying?

A. Yes, sir.

Q. Then not long after that another merchant in town was killed?

A. Yes, sir.

Q. Who was that?

A. Mrs. Weisberg.

Q. A lady who operated a store in about 50 feet of your police station?

A. Close—I don't know how many feet.

Q. Now right on the heels of that, then there was another attack upon a woman merchant in the City of Aiken?

A. Yes, sir; Mrs. Cholakis.

Q. Now I will ask you if you have any evidence to link this man up with the David Garrick slaying?

A. No, sir.

[fol. 71] Q. Have you any evidence to link him up with J. O. Ussery slaying?

A. No, sir.

Q. And J. O. Ussery was shot by two negroes?

A. Yes, sir.

Q. And one of them was a big negro according to the witness?

A. No, they were the same size.

Q. But they were good size negroes?

A. Fairly good size.

Q. And have you any evidence to link this boy up with the killing of Mrs. Weisberg in her shop?

A. No, sir.

Q. Have you any evidence to link this boy up with the slaying of Mrs. Cholakis?

A. No, sir.

Q. There are no charges against anyone in connection with any of those four slayings—I mean there are no warrants issued against any one now?

A. We have a couple under investigation on the Cholakis case. We have a warrant for those—that is the only case.

Q. But you don't have this boy tied in with any of those?

A. No, sir.

Q. Because he was in jail when Mrs. Cholaki was slayed and he was in jail when Mrs. Weisberg was killed in her store and he was in custody on his way to Aiken when Mr. Ussery was killed and you don't have him for the David Garrick killing, so, Chief, since the killing of David Garrick just before the Bennett slaying, there has been a series of slayings in the City of Aiken?

A. Yes, sir.

Q. And they are not cleared up?

A. No, sir.

Q. And they have continued down to one month ago?

A. Yes, sir.

Q. And the Bennett slaying was 28th of April last year?

A. Yes, sir.

Q. Now I will ask you if there wasn't a reward raised right here in this Court House following the Garrick and Bennett slaying?

A. Yes, sir.

Q. How much was raised, do you recall?

A. No, sir.

Q. Wasn't there more than \$2,000?

A. Yes, sir.

Q. You attended that mass meeting of people from all over the County and they walked up and dropped their contributions on the table here?

A. Yes, sir.

Q. And I believe our Solicitor attended the meeting?

A. Yes, sir.

Q. And that reward money was for the Garrick and Bennett slaying?

[fol. 72] A. Yes, sir.

Q. Because it was such an outrage?

A. Yes, sir.

Mr. Lybrand: That's all.

By the Solicitor:

Q. One of two other questions. When the reward was raised, no officer, as I understand ever participates in the reward that is offered in this case?

A. That's right.

Cross-examination.

By Mr. Lybrand:

Chief, I believe that you are something of an expert on ballistics?

A. No, sir.

Q. You have studied Ballistics?

A. Yes, sir.

Q. You have taken this F. B. I. Course in Washington?

A. Yes, sir.

Q. You say that is a 38 short pistol and fired 38 short bullets?

A. Yes, sir.

Q. There are dozens if not hundreds of 38 caliber pistols that fire shorts in this County?

A. Yes, sir.

Q. And possibly several hundred of those same kind of pistols?

A. Yes, sir.

Q. Now I will ask you if you have any proof that those bullets came out of that gun?

A. No, sir.

Q. You don't have any proof that these bullets came out of that gun?

A. No, sir.

Q. Now, Chief, I will ask you if you have a finger printing expert in your department?

A. Yes, sir.

Redirect examination.

By the Solicitor:

Chief, one other question with reference to the pistol. Counsel asked you if you had some experience with examining weapons and in studying ballistics. You are not an expert, but I will ask you whether or not a rusty barrel would have anything to do with determining the identity of the bullet shot from it.

Mr. Lybrand: Just a minute. I believe the witness testified he was not an expert.

The Court: That is true. He said he wasn't an expert, [fol. 73] but he *That is true. He said he wasn't an expert, but he* stated he had a course in that training or a course in

the police academy of the F. B. I. which included a study of pistols and bullets.

The Witness: Yes, sir; how they could be identified or could not but I can't identify it. I could just tell the methods.

The Court: You do know and could qualify as to the various methods, but you are not in a position to pass upon the methods?

A. That's right.

The Court: I believe he could state the methods.

Mr. Lybrand: In connection with that, I don't think he could say anything in regard to these bullets.

The Court: That wasn't the question.

By the Solicitor:

Q. I will ask you this. In your knowledge that you have to determine whether bullets were fired by a certain pistol, you know the methods by which these tests are made?

A. Yes, sir.

Q. I will ask you this, whether or not the methods that are used, if the barrel of the pistol was rusty could the method be used?

A. No, sir.

Q. I will ask you to examine this pistol to see if there is any rust about it which would interfere in making those tests?

Mr. Lybrand: Now your Honor, I believe he could explain the method, but couldn't make an identification.

The Court: He has been asked to look at that pistol barrel and express his opinion as to whether or not it is of a rusty character. Now I don't know whether he can do it or not. Of course, you are to testify to what you know of your own knowledge, Chief.

A. Yes, sir.

The Court: All right, go ahead.

The Witness: I can't determine whether this could be tested or not, because I would have to have the test bullet to determine whether the rust was in it. Just by looking at it you can't determine the amount of rust.

By the Solicitor:

Q. Well if there is rust in it, it would be impossible to [fol. 74] determine whether a certain bullet was fired from it?

A. Yes, sir.

By Mr. Lybrand:

Q. You are not in a position to say that the degree of rust that you find in that barrel there is sufficient to prevent one from making the necessary identification, are you?

A. I can't say, because this may have been fired recently and you would have to take those things into consideration in what you are testing. And you can't just look at it and tell how much rust is in it.

Q. You are not in a position to say that a bullet fired from that pistol could not be identified as coming from that pistol?

A. Not of my own knowledge, no, sir.

Mr. Lybrand: That's all, sir.

By the Solicitor:

Q. You are experienced in making finger prints?

A. Yes, sir.

Q. Did you try to make a finger print from that money drawer?

A. Yes, sir.

Q. Did you get any finger print off of it?

A. No, sir.

Q. Why?

A. The drawer was made out of rough pine and there was no finger print available on it.

Q. Because of the nature of the wood?

A. Yes, sir.

Q. Any other objects that you tried to make a finger print from?

A. Well, yes, sir; we tested quite a number of articles where we thought we might be able to get a finger print.

Q. And you were unable to get a finger print of anybody?

A. Yes, sir.

The Solicitor: All right—come down, sir.

W. J. THOMPSON, (recalled, having been already sworn) testified:

Direct examination.

By the Solicitor:

Q. You are a member of the State Constabulary and have held that position for sometime, including last year?

A. Yes, sir.

Q. Do you remember when Edward L. Bennett was killed out on the Vaucluse Road?

A. Yes, sir.

Q. Did you take part in that investigation?

A. Yes, sir.

[fol. 75] Q. After you had made some investigation, and some weeks had passed, did you accompany Sheriff Fallaw to Tennessee to bring back to Aiken the defendant, Harris?

A. Yes, sir.

Q. What kind of warrant did you have him arrested on?

A. He was arrested on a warrant for grand larceny, for stealing a pistol.

Q. And you and the Sheriff went where to get him?

A. Nashville, Tennessee.

Q. And you brought him back through the country in a car?

A. Yes, sir.

Q. When was that?

A. We left Aiken July 13th and returned to Aiken on the 14th of July which was Sunday.

Q. You then put him in jail?

A. Yes, sir.

Q. En route home did you talk to him in reference to the Bennett killing?

A. I did not.

Q. Who did the driving and who talked to the defendant?

A. I think I was the only one said anything to him. We split the driving up. I drove an hour and the Sheriff drove and hour.

Q. But you did talk to him coming along home?

A. Yes, sir.

Q. What did you question him about?

A. I asked him about the pistol.

Q. What did you refer to?

A. He said he didn't have no pistol, only a side Colt 32 and I said I am talking about the pistol you got from Annie Brown and he said he let Annie Brown have his pistol and she took hers.

Q. Did he describe the kind of pistol he got from Annie Brown?

A. 38.

Q. You had some information from Annie Brown as to her losing a pistol?

A. Yes, sir.

Q. Well then, did he tell you anything about what he had done with the pistol?

A. He said his mother had taken it to Johnston, S. C., to Ticks Cafe to give to Charlie Williams.

Q. Pursuant to that information did you find the pistol?

A. Yes, sir; it was at Charlie Williams house. He is the man that gave it to me.

Q. Is that the pistol that has been offered in evidence?

A. Yes, sir; that one there, a 38 Smith & Wesson, short.

Q. Did you see the bullets that were taken out of the body of Mr. Bennett?

A. Yes, sir.

[fol. 76]. Q. What size bullets were those?

A. Well I think they are 38's. In my opinion they were. They were battered up. I didn't see the bullets when they were taken from Mr. Bennett.

Q. But you saw the bullets offered in evidence?

A. Yes, sir.

Q. Well after you brought him home and put him in jail and got the pistol, did you talk to Harris?

A. After we got the pistol we talked to him a little late Monday afternoon around seven-thirty or eight or nine.

Q. When you say "we", who do you mean?

A. Well, the officers were here when we came back from Tennessee. There were some several state constables here. They had had another shooting here and they were called in investigating it and we came in and they stayed over for the next two or three days.

Q. Now the first interview you had with him concerning this case was on Monday afternoon or night?

A. Yes, sir.

Q. Was any threats made against him or any inducements offered to him to make a statement concerning this case?

A. I did not myself. I didn't hear any.

Q. Was any that afternoon made in your presence?

A. No, sir.

Q. Was he questioned as to whether or not he had anything to do with the killing, that night?

A. Well right off-hand I don't recall but we talked to him. We asked him his whereabouts on that Sunday and he went on and stated he was with J. T. Medlock and Wylie Bennett.

Q. When did you next talk to him?

A. Next day about 1:30, Tuesday, 16th of July.

Q. Do you remember who was out there at the jail then?

A. Well there were several of the officers and we talked to him awhile and we left.

Q. Was that the afternoon that J. T. Medlock was talked to?

A. Yes, sir.

Q. Did you send and get him and have him up at the jail?

A. Yes, sir.

Q. And about how long did you all stay up there during that afternoon?

A. I suppose we left there about 5:30 or 6 o'clock.

Q. Well then later on you say you went back about 7:30?

A. Yes, sir.

[fol. 77] Q. Who went then, do you remember?

A. Me and Chief Sprawls and Long and Mr. Baker, the jailor was there.

Q. Sheriff was not there that night?

A. No, sir.

Q. Did the defendant make any statement to you concerning the killing that night or any knowledge he had of the killing?

A. He said he let Wylie Bennett have his pistol on the 26th day of April to get him some cartridges for the 38 pistol and he gave him a dollar.

Q. Did he say why he wanted Wylie to get him the bullets?

A. He did not.

Q. Go ahead!

A. He said he gave him a dollar to get them with and loaned him a dollar and he didn't see Wylie any more until Sunday around 12 o'clock at Diggs Cafe and that Wylie was sitting in his car—1936 Chevrolet coupe with his feet

on the running board and he asked him "What's the trouble" or some words to that effect.

Q. I will ask you this to save time—

Mr. Salley: Your Honor, I would like to hear the rest of that.

The Solicitor:

Q. I was just going to ask him was that statement reduced to writing?

A. It was.

Q. In other words when he began to implicate Wylie Bennett, you kept on questioning him?

A. Yes, sir.

Q. And after he made a long statement you had who to write it down?

A. Chief Sprawls.

The Solicitor: I will introduce this in evidence and have you read it to the jury.

(Paper referred to introduced in evidence and marked Ex. 6 W. L. M. and read to the jury by the witness.)

Q. Now that statement was made to you by the defendant on Tuesday night?

A. Yes, sir; he told me if the rest of them would go out he would tell me about the whole thing.

Q. What time of night was that?

A. Well then it was getting pretty late.

[fol. 78] Q. You all had been talking to him for sometime that night?

A. Yes, sir.

Q. Did he in the course of his statement on Tuesday afternoon say anything about Wylie Bennett being with him or knowing anything about it?

A. No, sir.

Q. Did he deny or admit that he knew who did the shooting or killing of Bennett during the afternoon?

A. He said he didn't know anything about it.

Q. And on Tuesday night up until the time you say lie said he wanted to talk to you by yourself had he mentioned Bennett's name?

A. He did not. He wasn't asked until he told me about that statement.

Q. What did he say about going out?

A. He said, "I will tell Mr. Will—that is what he called me—if the rest of them will go out I will tell Mr. Will."

Q. Is that when he made that statement you have just read?

A. Yes, sir.

Q. What did you do?

A. I called Chief Sprawls and Mr. Baker and Mr. Long and told them what he had said and Mr. Sprawls got some paper and put it in the typewriter and he started off telling it and I got up and got my hat and asked Mr. Baker to let me out of the jail and I got in the car and went to the chain gang camp to Mr. Fred Scott's house and asked him to go down to the chain gang camp and get Wylie Bennett.

—. He was serving a sentence out there for what?

A. Using an automobile without the owners consent.

Q. He was tried during the May term of Court?

A. Yes, sir; and it taken us sometime to get Wylie and I brought Wylie Bennett to the *to the* jail and sat him down right facing L. D. Harris and I said, "L. D. here's Wylie, tell him the same thing you told me" and he told it and Wylie said, "Boy, you don't know what you are doing, or what you are saying" and Harris snapped his finger right in his face and said, "Wylie, you know you done it. You told me you done it."

Q. What did Wylie say?

A. He denied it.

Q. Emphatically or not?

A. Yes, sir; he said, "Boy you are lying."

[fol. 79] Q. That took a good while to do that?

A. Yes, sir; we got through on the 17th.

Q. In other words you all had been trying then from Monday afternoon until Tuesday night to find out from the defendant just what he knew about the killing, if anything?

A. Yes, sir.

Q. And it was what hour Tuesday night, did he make that statement to you?

A. Well he started to talking about it I reckon right around eleven o'clock or maybe $\frac{1}{4}$ to eleven—something like that.

Q. Was he treated cordially and properly?

A. Yes, sir.

Q. Was he threatened or promised anything or induced in any way to make that statement?

A. I didn't see anybody at all put their hands on him no more than myself. When he got through making that statement I got up and slapped him on the shoulder like that (indicating) and said, "You are not telling the truth."

Q. In other words you expressed to him the fact that you didn't believe what he was saying?

A. That's right.

Q. But you had it taken down in writing?

A. Yes, sir; for he was willing to make it.

—. What did you do with Wylie Bennett?

A. I carried Wylie back to the City jail and kept him there for 3 or 4 days.

Q. Now what happened on Wednesday?

A. Well Wednesday, we were all out there talking to him and then we left.

Q. How long did you stay there Wednesday afternoon talking to him?

A. Well I didn't have much to say to him. There was some several officers out there and I was in and out.

Q. Were you called to go down there any time latter on?

A. I was called by Chief Richardson to come to the jail later that night.

Q. Who was with you when you were there in the afternoon?

A. Same bunch of officers—Chief Richardson and Sheriff Fallaw.

Q. During that afternoon did any officer in your presence make any threats towards the defendant?

—. I haven't heard a man make a threat.

Q. Did they do anything to induce him or intimidate him to make a statement?

A. Not to my knowledge.

Q. Within your hearing or observation?

A. No, sir.

[fol. 80] Q. About how long were you around that afternoon?

A. I would go in there and come out. It was pretty hot there that afternoon.

Q. Well you were called back that night?

A. Yes, sir.

Q. Just tell what occurred after you got there.

A. Well I went in the jail and Chief Richardson said "L. D. has decided to tell the truth."

The Court: L. D. Harris was sitting there and could hear that?

A. Yes, sir; and I said, "Very well, or very good."

By the Solicitor:

Q. Then what occurred—did he proceed to tell it?

A. Yes, sir; he went over it.

Q. In going over it, I will just ask you if you read over the statement which has been offered in evidence here?

A. No, sir.

Q. Who wrote it down?

A. Chief Sprawls was called in.

Q. Was the statement he made reduced to writing after Chief Sprawls got there?

A. Yes, sir.

— Who witnessed it, do you remember?

A. I don't know. I left before he finished writing it down.

Q. But you heard the defendant say how it was done?

A. I heard part of it.

Q. Well then just relate what you heard—one minute, before he said anything, in your presence was he threatened in any way or offered any inducement or promised anything to make the statement?

A. I didn't hear anything said to threaten him, but he did say this. I asked him "Is that right" and he said, "Yes, sir; Mr. Will you can do whatever you want to with me."

Q. All right, go ahead and tell it in your own way!

A. He said on April 28th about nine o'clock he had left Bugaboo to come up the old Graniteville Road and got in sight of this Bennett's store and said he had a feeling that he had never had before and he walked in the store and ordered a pack of cigarettes and some meats and some other stuff and some irish potatoes and that the man put some irish potatoes in the scale and reached down to get some more and when he came up with the potatoes he shot him [fol. 81] three times and his wife—the lady, he said, came running in there and seen him and turned and went back and he shot her once and he then jumped over th- counter and went in Mr. Bennett's left hand hip pocket and got his pocket book and he got some change out of the drawer

and he went in by Fox's Crossing and went to a Cafe and got a couple of sandwiches and a drink and he went on and then I walked out of the place in front of the jail there where there was one or two out there—I don't remember who they were and when he finished his statement I don't know who signed it.

Q. Where was he sitting when he was giving the statement?

A. He was sitting in a chair right this way, with his leg thrown over the arm of it.

Q. Was he comfortable situated there?

A. Yes, sir.

Q. What did he say to you about it?

A. He said, "Yes, sir; Mr. Will do what you—

Q. You asked him what?

A. I said, "Is that right, L. D." and he said, "Yes, sir"; Mr. Will you can do whatever you want to with me."

Q. Did you ask him during that time anything about the statement he made implicating Wylie Bennett the day before?

A. I did not.

Q. Did he appear to be excited or scared or worried at that time?

A. Not at that time, he did not.

Q. Was he as cool and collected as he is right now sitting in this Court Room?

A. Yes, sir.

The Solicitor: You may cross examine him.

(The Court takes a brief recess at this point.)

Cross-examination.

By Mr. Williamson:

Q. Mr. Thompson, how long have you been a member of the State Constabulary?

A. Since June 3, 1935.

Q. At the time of the Bennett killing, you had been a State Constable for over eleven years?

A. Yes, sir.

— And during the course of those 11 years you had investigated many crimes, have you not?

A. Well some few.

[fol. 82] Q. And the Chief of the State Constabulary designated you as one of the chief investigators in the solution of this crime?

A. Yes, sir; he told me to stay at the police station and help the officers with the investigation.

Q. And you understood that to mean you could relieve yourself of any other duty except in connection with this case?

A. Well I didn't do it.

Q. You didn't do anything during that period of time except work on this case?

A. No, sir.

Q. And during the course of your investigation you had the power and authority of the State to assist you?

A. I had the authority of the State and County and all.

Q. And if need be, you could have called upon the Federal Government to assist you?

A. Well I don't know whether I had that much power or not.

Q. But you have done that in other cases?

A. I don't think you can call the government in on a murder case at any time without soliciting someone.

Q. Did you go — the scene of this crime?

A. I did.

Q. And what time of the day did you arrive there?

A. About three o'clock in the afternoon.

Q. Did you observe a little boy there by the name of Danny?

A. No, sir.

Q. Didn't talk to him?

A. I did not.

Q. Was the place locked up or open?

A. When I arrived at the place it was locked.

Q. Did you go into it that afternoon?

A. I did not.

Q. When was the first time after this crime that you entered that store?

A. I never entered that store as I remember until it was reopened again.

Q. Do you recall when that was?

A. No, sir; I went there with Chief Sprawls to that store and it was reopened. I don't remember the date.

[fol. 83] Q. On the Sunday afternoon that you went there, did you look into the interior of that store?

A. No, sir; I didn't lock in the store because I taken my automobile and went to riding the roads around there. There was some 50 or 60 people around there.

Q. When was the first time you looked into the store to see what was on the counter?

A. I didn't look in there to see what was on or under the counter. It had been reopened and other parties were operating it when I went in there.

Q. When you and Chief Sprawls entered that store, for what purpose did you to there?

A. Well Mr. Bennett's sister was operating the store and we asked her a few questions about people passing there.

Q. Do you know whether or not anybody else had been in that store before you and Chief Sprawls entered it?

A. Mr. Bennett had been in there and it had been reopened.

Q. What was the condition of that store when you entered it?

A. Well just canned goods in it.

Q. Had the things been removed from the counter?

A. I didn't see anything on the counter.

Q. Did Mr. Sprawls or you make any comment concerning that fact?

A. I did not.

Q. Did you ask any questions concerning that fact?

A. No, sir.

Q. I believe you went in the store house of one named Garrick who was slain in this County?

A. I did.

Q. When you entered that store house had any of the goods on the counter or scales been disturbed?

A. I don't recall.

Q. Do you remember whether there had been some Irish potatoes in the scales at Garrick's store?

A. I don't recall.

Q. You will testify that it was not on Sunday that you entered that store?

A. No, it wasn't on Sunday. It was during the week.

Q. You stated that you were out riding around in that vicinity?

A. Yes, sir.

Q. And who were you looking for?

A. From the information I received I was looking for a [fol. 84] negro.

Q. What kind of a negro?

A. Nigger, some yellow ones and some black ones.

Q. Were you looking for a small one or large one?

A. I wouldn't say. I was just looking for a nigger in them woods.

Q. Do you mean that someone hadn't told you what kind of a negro it was?

A. Nobody hadn't told me anything except a nigger had shot Mr. and Mrs. Edward L. Bennett.

Q. Were you looking for one that was wearing the uniform of the army?

A. No. If I had found anyone out there at all I would have brought him in.

Q. Were you present when a tall negro wearing a uniform and glasses was brought in?

A. No, I was not.

Q. Have you been informed about that?

A. I have heard it.

Q. Why didn't you make it your business to talk to that man?

A. If there had been such a person as that, he would have been questioned.

Q. Who else did you lock up in the course of that investigation?

A. I can't tell you. I don't remember all the names. We picked up several boys and questioned them and turned them loose.

Q. Did your questioning of those men last into the early morning hours for three or four days at a time?

A. No, sir; it did not.

— Did you ever talk to the former Mrs. Bennett?

A. Yes, sir; about 10 or 15 minutes.

Q. And you didn't think she had done it?

A. I sure didn't.

Q. Why did you question her?

A. They had her in jail and some of them asked me to talk to her.

Q. Was our old friend Wylie Bennett locked up on Monday after this killing on Sunday?

A. No, sir; I can't testify he was locked up.

Q. You were at the police station most of that time?

A. No, sir.

Q. Reported in there occasionally?

A. Yes, sir.

Q. Do you mean that Chief Sprawls didn't divulge to you the fact that he had Wylie Bennett locked up?

A. He never did.

[fol. 85] Q. He didn't call you in and say he had a large man who had dark skin and who was suspected of killing those people?

A. He never told me anything about Wylie Bennett.

Q. Well it was much later in July when you first talked to Wylie Bennett?

A. Yes. Wylie Bennett was arrested on a whiskey charge and he was in jail around there but I didn't talk to him then. I didn't talk to him until L. D. Harris told me what he did.

Q. And the Chief of Police of this town didn't tell you that he had him in jail as a suspect?

A. No, sir.

Q. How were you operating in this case, just blindly?

A. Well, no, not altogether. You say Wylie was picked up on Monday.

Q. I am asking you if you don't know that he was picked up on Monday?

A. No, I can't swear that. I was told he was.

Q. Well, you know these people had been killed with a pistol?

A. Yes, sir.

Q. And your interest began to center upon finding a pistol?

A. That's right.

Q. That *you* your chief and primary interest at that time?

A. I sure wanted to find the pistol.

Q. I will ask you if you think you have found the pistol?

A. I absolutely do, sir.

Q. I will ask you why you think you have found the gun?

A. Because L. D. Harris said it was the gun.

Q. But there has been nothing done or found on your part other than what he has told you that leads you to believe that you have found the gun?

A. Oh, as far as the tests is concerned I don't think the test showed anything.

Q. And if L. D. Harris hadn't told you he had used that gun you would still be in the dark?

A. Yes, as far as the test was concerned.

Q. You went down to Graniteville to look for a gun?

A. Yes, sir.

Q. I believe you will be fair to me and the Court. You had talked to Mr. Herrington?

A. I did not at that time.

[fol. 86] Q. Tell me why you went to Annie Brown's house?

A. Gene Williams operates a store around Fox's Crossing. He has a boy working for him named Dees—

Q. As a result of what he told you, you went—

A. Wait a minute. He sent for me to come to the store and he told me that Annie Brown told him someone had stolen her gun.

Q. How far did those people live from Annie Brown?

A. The store is just one block from her.

Q. It became general knowledge in that community that Annie Brown had lost a pistol?

A. I don't know whether she told anybody.

Q. If they hadn't sent for you to tell you she had lost a pistol, you might never have gone there looking for one?

A. I doubt it. I would have to have some information.

Q. I will ask you if L. D. Harris ever told you or any other officer in your presence that that 38 pistol was his?

A. No. I don't think he did. As I recall only the day he said he let Wylie Bennett have his gun.

Q. And you don't know whether it was that 38 pistol or the 32 pistol?

A. No, all I know is what they said.

Q. What they told you?

A. That's right.

Q. Well, sir, after you had been down to Annie Brown's house, she would tell you certain things, wouldn't she?

A. Yes, sir; she told me about losing the gun.

Q. Didn't she connect up with that gun one L. D. Harris?

A. If you will let me tell it I will tell you.

Q. No, sir; I don't want to know what she said?

A. Yes, sir; she said L. D. Harris got her pistol.

Q. Did she claim he had stole her pistol?

A. Yes, sir.

Q. And by talking with her you gained the impression that she was mad with him?

A. No, sir; she didn't talk like it.

Q. But she just belched it out when you asked her about it?

A. I asked her what kind of pistol she lost and she said little black pistol about that long and I asked her what [fol: 87] sort of cartridges did it shoot and she said she didn't know but she had some and I asked her to let me see them and she went in the house and got 3 of them and brought them out and gave them to me and they were 38 caliber.

Q. She didn't claim that the one who stole her pistol took all of her am-unition?

A. She said the gun was loaded with 5 in it and she had 5 more and they got 7 of them.

Q. That was the first time you ever heard of a man named Harris?

A. I didn't know him.

Q. But you hear his name that day?

A. I sure did.

Q. And from that moment on until this good hour, you have been interested in L. D. Harris?

A. Yes, sir; I sure have.

Q. That has been your primary business and him as well as your job?

A. I wanted to talk to him.

Q. And then by various modes of investigation you found out where he was?

A. Yes, sir.

Q. In consequence of finding out where he was, what did you or others, to your knowledge do?

A. I came down and told the Sheriff and we made a few more investigations and then he swore out a warrant for him for grand larceny of a pistol.

Q. Did Annie Brown tell you anything about L. D. Harris's pistol?

A. She never did.

Q. Did she tell you she had his pistol?

A. She did not.

Q. She hasn't told you that until this good hour?

A. No, sir.

Q. But I believe you did testify that L. D. Harris never did claim that was his pistol?

A. I never did hear him say anything about his gun, only what he told me, that he let Wylie Bennett have his gun.

Q. Did Annie Brown have anything to do with signing the warrant?

A. No, sir; Sheriff signed the warrant and swore it out.

Q. After you all got the warrant — did you do?

A. The warrant was mailed to the authorities at Nashville and I think the Sheriff called them up on the phone and told them he wanted him picked up and there was a warrant in the mail for him.

[fol. 88] Q. You remember the day the Sheriff jubilantly told you that L. D. Harris was in jail in Nashville?

A. I think it was Friday night, 12th of July.

Q. It was late at night on Friday when you got the message he was in jail?

A. It was along about 7 or 8 o'clock, as far as I remember.

Q. What time did you leave here to go get him?

A. 13th day of July about 5 o'clock in the morning.

Q. That is the man you had charged with stealing a pistol?

A. Yes, sir.

Q. You didn't have him charged with murder?

A. No, sir.

Q. What time did you get to Nashville?

A. Around 4 or 4:30 in the afternoon.

Q. Pretty tired weren't you?

A. Yes, sir.

Q. Did you go to see him at the jail when you got to Nashville?

A. Not until next morning, I imagine around 4 o'clock when we went to get him. That was Sunday morning.

Q. Did you read the warrant to him at the jail house door?

A. Did not.

Q. Did you tell him what you had him arrested for?

A. No, sir.

Q. Did you discuss the arrest with him at all?

A. Did not.

Q. How was he dressed?

A. I don't recall now.

Q. When you put him in the automobile did you put him in the front or back seat?

A. Back seat.

Q. Was he sitting there as he is now?

A. No, sir; he was handcuffed.

Q. Did he request that you take him by his boarding house to get his suit case?

A. That's right, and we went and got them.

Q. That was the 14th of July?

A. Yes, sir.

Q. You knew that L. D. Harris had been gone from here a pretty good while?

A. Yes, sir; I heard it.

Q. Did you talk to the people who lived in the boarding house about him?

A. No, sir.

[fol. 89] Q. In other words you had what you went for and were coming home?

A. Yes, sir.

Q. And up to that good hour the only information you had was what Annie Brown had told you about it?

A. That's right.

Q. Did he go to the house for his suit case?

A. No, sir; I went and got it. A woman gave it to me.

Q. Did Harris ever open the suit case in your presence?

A. He never did.

Q. Who opened it?

A. I did when we got back to the jail.

Q. And you went through it?

A. Yes, sir.

Q. When you started back home with Harris did you tell him what you had him arrested for?

A. I hadn't told him anything. The authorities in Nashville told him I reckon.

Q. Did Harris tell you about a debt he owed a man in Aiken County?

A. He didn't. I knew about it.

Q. Well where were you when you first talked to him about the pistol?

A. Well we left Nashville and the Sheriff was driving and he drove about an hour and then I took the wheel and drove about an hour and then the Sheriff took the wheel and then I asked him about the gun.

Q. About what gun?

A. The gun that he had taken from Annie Brown?

Q. Are you sure that is what you asked him?

A. Yes, sir.

Q. Didn't you ask him what he had done with this pistol?

A. I may have done that.

Q. What did he tell you?

A. He said he didn't have no pistol, only a 32 side Colt.

Q. And you didn't know but what he was telling the truth, did you?

A. Well I wouldn't say that he was telling the truth.

Q. You wouldn't say he was lying to you when he told you he owned a Colt 32?

A. No, sir.

Q. That wasn't the answer you wanted him to give you?

A. No, I told him I didn't mean the 32 I meant the pistol he got from Annie Brown, the 38.

Q. What did he say?

A. He said his mother taken it to Johnston, S. C., to [fol. 90] Ticks Cafe for Charley Williams.

Q. And that was the truth as you later found out?

A. Yes, sir.

Q. Up to that time this man hadn't told you anything which you later found out to be a lie?

A. That's right.

Q. What time did you go to Aiken County jail?

A. About 4 o'clock.

Q. And Harris made that trip sitting handcuffed in the back of the automobile?

A. Yes, sir.

Q. And you and the Sheriff relieved each other every hour in driving that car?

A. Yes, sir; didn't have to.

Q. You were worn out when you got here?

A. I was tired.

Q. Didn't the Sheriff complain to you he was tired?

A. Yes, sir; he complained. I think he wanted to get out of some of the driving.

Q. Well you had the man you had gone for charged with stealing a pistol?

A. Yes, sir.

Q. You didn't talk to him any that day?

A. No, sir.

Q. You knew your prey was safely lodged in jail?

A. Yes, sir.

Q. You knew you had your man?

A. I knew I had one man.

Q. But you didn't know then that you had somebody who had killed somebody?

A. No, sir; I did not.

Q. But the circumstances were pretty strong?

A. Well the circumstances were strong enough for him to be questioned.

Q. And when you and the Sheriff put him in jail on Sunday afternoon you found out that somebody had been shot while both of you were gone from here?

A. Yes, sir.

Q. And that a young man had been shot down and robbed in his own store?

A. Yes, sir.

Q. What was your first reaction when you heard Mr. Ussery had been shot in his storehouse in Aiken?

A. Well there were several officers here.

Q. What do you mean by several officers?

A. Well some 4 or 5 State Constables and the Chief of Police and 6 or 7 policemen.

Q. And didn't you say, "We have made a trip for nothing?"

A. No, sir.

Q. Only God will know your answer but didn't you think you had made a trip for nothing?

A. No, sir.

[fol. 91] Q. Well you met your Chief?

A. Yes, sir.

Q. I see Mr. Dollard here—stand up Mr. Dollard—he won't get in here when I am talking about this thing. Who else was here?

A. Mr. Morse and Mr. Gaines, I think.

Q. Stand up Mr. Morse and Mr. Gaines. Who else?

A. I don't recall.

Q. Well several?

A. Well that is several—that is three.

Q. Later on you had a crowd?

A. Well with the police that is a pretty good crowd.

Q. Then you decided to go out and have a conference with him on Monday night?

A. Yes, sir.

Q. And when you decided you would go out and talk to that man on Monday night you had already talked to the Chief of the State Constabulary in the meantime?

A. Yes, sir; I talked to him on Sunday.

Q. And in your testimony you told Solicitor Carter we talked to him on Monday night?

A. Yes, sir; I believe I did.

Q. And you said that several Constables that had come down here in the Ussery case came down to question Harris—that's true?

A. Yes, sir; we all talked to him.

Q. If they hadn't been here they wouldn't have been sent to question him?

A. I can't swear to that.

Q. What time did you go out to the jail on Monday?

A. I reckon around 7:30 or 8 o'clock.

Q. Was it daylight or dark?

A. Well the days are long then.

Q. Well how many were out there?

A. Oh, some 3 or 4 or 5 of us.

Q. I will ask you, sir, if that is a fair representation of that jail office out there?

A. Here's the door you go in, here's the desk over here. I ain't paid much attention to it and I wouldn't swear that was.

Q. Wouldn't swear that was?

A. No, sir; and I don't know where that came from no-how.

Q. About how wide do you think that jail office is?

A. Well I imagine that jail office inside is around 10 x 8 or 11 x 8, something like that.

[fol. 92] Q. Isn't there a large roll top desk in there?

A. Yes, sir; there was one.

Q. And wasn't there a large table on the other side of the office?

A. There was a desk there where they keep the books and then on that side, next to the door, where they keep some keys there was one there. I don't know whether it is there now.

Q. And it was a big desk and big table?

A. The table isn't so large—pretty good size desk.

Q. Now the Sheriff talked about the commodious quarters—how many chairs are in that place?

A. There maybe 3 or 4.

Q. Where did you all go to get those chairs?

A. Well I didn't go get any chairs myself.

Q. When did they put 3 chairs in the jail office?

A. I have been out there and they have held court in there and I have seen as much as 3 chairs in there. I don't know whether they stayed there all the time or not.

Q. And the office, 8 x 10 with a roll top desk and table and several Constables and that is where you talked to Harris?

A. All of them didn't go in that little office and stay in there. Maybe one or two would go in and talk to him.

Q. And the reason they all didn't go in there and stay in there was that it was so terribly hot they couldn't stand it?

A. It was pretty warm, yes, sir.

Q. And they turned the light on—

A. Yes, sir.

Q. It is a large bright light?

A. I don't recall.

Q. Well what did you talk to him about?

A. Well lots of things, where he was born and how old he was.

Q. Think he told you the truth about that?

A. I think he told the truth all the way through.

Q. You did—that was on Monday night?

A. Told the truth about his age.

Q. Told you the truth about who his mother was?

A. Yes, sir.

Q. Told you who his father was?

A. No, I don't believe he ever said where his father was.

[fol. 93] Q. Told you where he worked?

A. Where he had been working.

Q. Told you what he done in Tennessee?

A. Working for Bowe's Construction Company.

Q. Well you found that was the truth?

A. Yes, sir.

Q. And then you got to talking to him about the Bennett case?

A. Yes, sir.

Q. That was on Monday night?

A. Yes, sir.

Q. That was the first time that thing was mentioned to him?

A. As far as I know.

Q. Well what did he say?

A. He flatly denied it. Told who he was with — day.

Said he got with J. T. Medlock and his cousin, Charlie Butler, and he finally met Wylie Bennett.

Q. Well in due course of time you found out he told you the truth about that, didn't you?

A. Yes, sir; we picked up Medlock and he told us.

Q. And didn't you question Medlock about having given that man some 22 pistol cartridges?

A. I don't know. I don't think I talked to Medlock. He was out in the jail standing up there and L. D. was out there and I don't recall whether I talked to him about it. Something was said about some 22 cartridges.

Q. Medlock told you that was true?

A. Yes, sir.

Q. And when Medlock backed him up in that statement you weren't interested in anything else old Medlock had to say?

A. He was turned loose.

Q. Let him go and didn't care to keep company with him any longer than he had told the truth?

A. I don't recall whether I talked to him any more.

Q. And he told you when you brought him in there that Harris had been with him?

A. Yes, sir.

Q. And when he said that you were ready for the jail house door to be opened and let Mr. Medlock go?

A. No, sir; I didn't have any further business with him.

Q. And what Harris had told you about that was the truth?

A. Yes, sir.

[fol. 94] Q. How long did you stay there that night?

A. I was in and out.

Q. What's the matter—was it too hot?

A. No, sir; but we wanted to find out who had been with him on Sunday and he told us he had been with Medlock and we wanted to treat him fair about it.

Q. You asked him about the Bennetts and he flatly denied it?

A. Yes, sir, on that dat.

Q. Up to that point your investigation was running on the rocks?

A. Well it wasn't no more on the rocks then than it was before we started.

Q. You were in the same predicament on Monday night that you had been for almost 3 months?

A. Well I wouldn't say that.

Q. Well in what way weren't you in the same predicament?

A. Well we had Harris arrested and we wanted to give him a fair investigation.

Q. You had him arrested but you didn't have any evidence on him?

A. Not at that time.

Q. And your position was the same since it had been since the morning these poor people were killed?

A. I wouldn't say that.

Q. What did you have at that time?

A. Well we had a 38 pistol. We had the man who said he got it from Annie Brown and we wanted to investigate that pistol and his activities on the 28th day of April before we ever gave up the investigation on him.

Q. But you still didn't have any evidence on him on Monday night?

A. Other than stealing the gun.

Q. You didn't have any evidence that he had stolen the gun?

A. We had enough to hold him until we had a preliminary hearing.

Q. The only word you had this side of heaven about that pistol was what sister Annie Brown had told you?

A. Yes, sir; that is all the information I had.

Q. You didn't make any inducement or threats to him that night?

A. Never have.

Q. Didn't strike him that night?

A. Never have.

Q. And you got no information out of him?

A. Nothing only that Medlock and Bennett had been with him.

[fol. 95] Q. Well they had all grilled him that night?

A. Didn't talk to him long. We wanted to find out about his activities on Sunday.

Q. You didn't stay in that office all the time he was being talked to on Monday night?

A. I don't think so.

Q. And there is not another one of these other officers who stayed there all the time he was being talked to on Monday night?

A. I can't swear about the other officers.

Q. But you will swear that L. D. Harris was there all the time?

A. As far as I know, he was there.

Q. He didn't go out of there?

A. No, sir.

Q. When was the next time you saw him?

A. Next day about 1:30 in the afternoon.

Q. Who went there with you then?

A. Well practically the same set of officers was out there and Mr. Herrington, as well as I remember, brought Medlock up.

Q. Medlock told the truth?

A. I imagine he did.

Q. And then didn't you consider that your investigation was over?

A. No, sir.

Q. Well I want you to tell me right at this point who else you investigated or what other information you got from that hour on that had anything to do with this case?

A. Didn't make any more other than talk to Harris.

Q. And so when you gentlemen talk about an investigation after this man was put in jail, your investigation consisted in quizzing him?

A. Yes, sir; we talked to him.

Q. Was he courteous and respectful to you and the other officers?

A. Yes, sir.

Q. Did he ever at anytime display any arrogance towards you all?

A. No, sir.

Q. Wasn't he as humble as any darkey you ever saw in your life?

A. I wouldn't say he was humble but he had respect for everyone of us.

Q. And he never did say to you or any of the *other* officers, when they were accusing him of not telling the truth, "Mr. [fol. 96] Will, they are lying!"

A. No, sir.

Q. As matter of fact he knew better than to say it!

A. I don't know whether he did or not.

Q. But didn't they over and over and over again ask him and he denied it and they would accuse him of it again?

A. I can't say for the other people I can talk for myself.

Q. Well you did that!

- A. I asked him a lot of questions.
- Q. And you accused him of it?
- A. I asked him did he do it.
- Q. What did he tell you?
- A. He said, "No, sir."
- Q. Didn't you say, "Harris, you know you killed those people?"
- A. No, sir; I am sure I didn't. I told him I believe he done it.
- Q. What did he say when you told him you believed he did it?
- A. He denied it.
- Q. Mr. Thompson, how much do you weigh?
- A. About 250 pounds.
- Q. Did you have your coat on that night?
- A. I didn't.
- Q. Well you talked to him over and over again about the same thing?
- A. Yes, sir; we talked to him about different things and asked him a lot of questions.
- Q. Asked him more questions than I have asked yesterday and today?
- A. I don't believe I did.
- Q. All right, sir, what did he say in connection with the Bennett killing?
- A. He denied anything in connection with the Bennett killing.
- Q. And that is what you were asking him about?
- A. If he had done it I wanted to know it.
- Q. And you determined you would get it out of him?
- A. I didn't put words in his mouth.
- Q. I didn't ask you that, I asked you if you were very determined man about this case?
- A. Well I wanted to know if — had killed Mr. and Mrs. Bennett.
- Q. And he told you he didn't do it?
- A. That's right.
- Q. And you were not the only man who kept talking to him?
- A. No.
- Q. And that lasted with all of those officers you have mentioned until 5:30 in the afternoon on Tuesday?
- A. We left there about 5:30.

[fol. 97] Q. Now the Sheriff didn't go over there Tuesday night?

A. No, sir; he wasn't there.

Q. He turned the jail house of Aiken County over to you and these gentlemen who came here from somewhere else?

A. No, sir; he didn't say anything to me about it.

Q. And Mr. Baker was there that night?

A. Yes, sir.

Q. And he was having his say too?

A. Well now I can't recall whether Mr. Baker said airy word to L. D. Harris.

Q. Did he go back upstairs or stay down there with him?

A. I seen him out there in that little hall.

Q. He was in and out?

A. Yes, sir.

Q. Chief Richardson was there?

A. Not this Tuesday night.

Q. Who was there on Tuesday night?

A. Mr. — and Mr. Long and Chief Sprawls.

Q. Will you stand up Mr. Long—how much does Mr. Long weigh?

A. I declare if I can tell you.

Q. Take a look at him and see how much you figure he would weigh?

A. About 220 or 225 pounds.

Q. How much would you say J. M. Sprawls weighed?

A. About 190 or 195.

Q. Wouldn't you say that Mr. Baker weighed more than this defendant?

A. He would weigh as much, yes, sir.

Q. How long did you gentlemen stay there on Tuesday night?

A. Well on Tuesday night we stayed there sometime until the morning of the 17th.

Q. Went there the early part of the evening and stayed until next morning?

A. Yes, sir; we left there around one o'clock.

Q. Wasn't it even far after two o'clock in the morning—be fair with me?

A. Now, I wouldn't swear. I know it was after 12 o'clock or one o'clock.

Q. You had practically lost all count of time?

A. No, sir.

Q. Were you men in a good humor?

A. I wasn't mad with anybody.

Q. But you weren't in a good humor?

A. Sure I was in just as good humor as I am now.

Q. Well I don't doubt that. What kind of humor was the [fol. 98] rest of of those fellows in?

A. I didn't hear them make any disturbance or quarreling.

Q. You didn't stay in the office with this defendant all the time?

A. I did not.

Q. You got tired and walked out?

A. Yes, sir.

Q. And then you would say, "Boys, Mr. So and So, you talk to him?"

A. Yes, sir.

Q. You will tell me the truth, I believe you?

A. Yes, sir.

Q. And when he got through talking to him in that hot boiling temperature, they would turn him over to another man who would talk to him?

A. The one who had talked to him before.

Q. After he had smoked and rested and been to the man's rest room, he would come back and talk to him again?

A. We all talked to him.

Q. And on Tuesday night or early Wednesday morning when you gentlemen left there exhausted and disgusted you still had no evidence on the defendant?

A. When we left there on Wednesday morning he had made the statement about Wylie Bennett.

Q. But you had no evidence on him?

A. Not as far as myself was concerned we did not.

Q. Who first mentioned Wylie Bennett?

A. He did.

Q. That was around what time?

A. About 10:30 or 11 o'clock.

Q. Up to that time he had told you he didn't have a thing to do with killing Mr. and Mrs. Bennett?

A. He made the statement about loaning Wylie Bennett the gun.

Q. You all got kind of interested in that?

A. I wanted to see what he would say.

Q. And what did you do when he finished making that statement?

A. When he finished his statement I got up and slapped him on his shoulder and said, "I don't believe it."

Q. And what did the poor devil say then?

A. He didn't say anything, said "I am telling you the truth", that's all.

Q. And that was after you had put your hands on him, wasn't it?

A. Yes, sir.

[fol. 99] Q. Then where did you go?

A. Called Chief Sprawls and Mr. Baker and told them he said he had lent the gun to Wylie Bennett and told them what he had told me and I got up and went to the chain gang and got Bennett and brought him back.

Q. And it was after two o'clock in the morning when you went to the chain gang for Wylie Bennett.

A. No, sir.

Q. Are you sure about that?

A. I wouldn't be sure but it was right around close to midnight.

Q. Well you told Harris you didn't believe what he was saying but you made a trip to the chain gang for Wylie Bennett just the same?

A. Yes, sir.

Q. How big a man is he?

A. Well he is pretty good size fellow.

Q. He is a tremendous man, isn't he?

A. Yes, sir; pretty good size man.

Q. You brought him in and sat down in front of Harris?

A. Yes, sir.

Q. What did Harris say?

A. Said you know you told me that and popped his fingers like that (indicating) and said, "You know you told me that."

Q. Well did Harris sign that statement?

A. He signed it and Mr. Baker and Mr. Long witnessed it.

Q. And that was an affidavit, wasn't it?

A. I don't know.

Q. Didn't you put him under oath?

A. I think so.

Q. "Personally comes L. D. Harris, who on oath says—

A. Yes, sir.

Q. And he signed his name and witnessed by Mr. Long and Mr. Baker the Aiken County jailor?

A. Yes, sir.

Q. Well the alleged confession that he later signed was put on oath when he signed that?

A. I don't remember.

Q. We will come to that in a moment—well you were interested enough in what he said about Wylie Bennett to have it written down?

A. Yes, sir.

Q. And that has never been further investigated?

A. Only I got Bennett out there and he denied it.

Q. And where is Bennett now?

A. In the Aiken County jail.

Q. What is he doing in jail now?

A. For armed robbery from the person.

[fol. 100] Q. When did that happen?

A. Couple of weeks ago.

Q. And you hit him and said, "Boy you are not telling the truth."

A. I didn't hit him.. I put my hand on his shoulder through no malice whatsoever.

Q. You weigh 250 pounds?

A. Yes, sir.

Q. And he was sitting down?

A. He was sitting in a chair.

Q. And then didn't he get down on his knees on the floor?

A. I have never seen him on his knees in my life.

Q. But you all have brought him to his knees?

A. I haven't tried to bring him to his knees.

Q. You didn't?

A. No, sir.

Q. Well did Bennett admit this man gave him some money to buy some pistol cartridges with?

A. Well he said he gave him a dollar to get some girl out of a house.

Q. Then didn't he also admit he gave him a dollar to purchase some pistol cartridges?

A. As well as I remember he did.

Q. And this man here—who is on trial had told you that before you ever talked to Bennett?

A. Yes, sir.

Q. And Wylie Bennett admitted he gave him the bullets?

A. Said he couldn't get the cartridges.

Q. What time is the next time you talked to the defendant?

A. The next time I talked to the defendant was when I was called around there by Chief Richardson.

Q. Mr. Thompson, you are under oath, before God. I will ask you this question, hadn't you made up your mind never to talk to him again?

A. No, sir; I hadn't.

Q. Hadn't you washed your hands of this case?

A. No, sir; not exactly, I hadn't washed my hands.

Q. What do you mean by not exactly?

A. Well I would just let somebody else do the talking to him.

Q. You didn't go back to the jail to face that man until your superior officer, your Chief sent for you?

A. No, sir; I didn't.

Q. That was on Wednesday night?

A. Yes, sir.

[fol. 101] Q. But you had talked to him on Monday and Tuesday?

A. Yes, sir.

Q. Knowing you as we all do, did you say you were "not exactly" thru with him?

A. No, sir; I Couldn't quite the case.

Q. But you wanted to quit, didn't you?

A. No, sir; I wouldn't say that.

Q. It would have been a great relief to you if you had been released from it then?

A. No, sir; I wouldn't say that but I had some other work to do on some other case.

Q. I am talking about this case?

A. No, I didn't.

Q. Well when the Chief of the Constabulary called you and you went to the jail, isn't this what Mr. Richardson told you when you walked in. He said, "L. D. Harris has decided to tell the truth", isn't that what he told you?

A. Words to that effect, Yes, sir.

Q. He didn't tell you that L. D. Harris had confessed it?

A. I ain't never said he confessed it.

Q. I know you didn't. He didn't say that?

A. He said he decided to tell the truth.

Q. And you gathered by that he was getting ready to make a statement that's right?

A. Yes, sir.

Q. And you didn't know what those men in ~~that~~ jail had told that boy was going to happen to him, when you got there?

A. I can't say that.

Q. But when you walked up on the scene late Wednesday night the Chief of the Constabulary said, "He has decided to tell the truth."

A. Words to that effect.

Q. Your reply was "very well."

A. That's right.

Q. And it was hot in there then?

A. It was warm, yes, sir.

Q. You didn't know who had been talking to him?

A. I didn't know only what I have been told.

Q. Then this poor devil went over that recitation?

A. Yes, sir.

Q. And the only thing you said to him when he got through with it was, "Is that right."

A. Yes, sir; or words to that effect and he said, "Yes, sir; do whatever you want to with me."

[fol. 102] Q. But the first thing you said to him was, "Is that right"?

A. Yes, sir.

Q. And he sat there and said, "Yes, sir; Mr. Will you can do whatever you want to with me."

A. Yes, sir.

Q. You never asked him another question, did you?

A. I didn't.

Q. And on the trip to the penitentiary and when he was in the S. C. penitentiary you never talked to him about it?

A. I never.

Q. Didn't you ask him later if he told his lawyers the truth?

A. Yes, sir; I did ask him that.

Q. What did he say?

A. Said he had left it in the hands of the Lord.

Q. Didn't he tell you he didn't intend to tell any more lies about it?

A. I don't just recall that. I never taken him to the penitentiary but once.

Q. Didn't you tell him, Mr. Thompson—be sure of this answer, sir?

A. All right, sir.

Q. Didn't you tell that man if when he came to be tried, if he was innocent, you hoped they would turn him loose?

A. I still hope that too.

Q. And this case has bothered and troubled you?

A. No, sir; why should I worry about it.

Q. You know you didn't get the confession out of him?

A. I didn't care nothing about it.

Q. From the time they were writing that thing down there that night, you didn't open your mouth?

A. I didn't have any right to open my mouth.

Q. Who else has confessed to killing the Bennetts to you?

A. Some little old boy Raeford Faile up here at Edgefield.

Q. And he was in the jail house too?

A. Yes, sir.

Q. Told you he had participated in the killing of them?

A. Said he drove the car.

Q. Do you remember the time when this poor devil was in the same jail and they knocked a man's brains out and he standing up there looking at it? Did anybody tell you about that?

A. No, sir.

Q. But it was in the Edgefield jail where you got another [fol. 103] man to tell you he had taken part in the Bennett killing?

The Court: Who are you talking about. I can't follow you. You mean the prisoner was there when some act took place?

Mr. Williamson: Yes, sir; I am asking this witness if he was informed about that?

A. No, sir; that is the first I have heard about it.

Q. They could have kept it quiet, couldn't they, Mr. Thompson?

A. I can't say about that.

Q. But on this night when this man's confession was being written down, you left?

A. I left and went outside.

Q. You even went on the outside of the jail?

A. I walked out on the steps.

Q. You didn't stay to listen to the confession that the man gave who you had went to Nashville for?

A. It didn't worry me.

Q. And didn't you tell Solieitor Carter that you had never seen it?

A. I never read it.

Q. Never read it?

A. Never did.

Q. And you haven't read it until yet?

A. I got one home that was in the paper.

Q. The only confession that L. D. Harris made, was one you read in the newspaper—that is the truth, isn't it?

A. Yes, sir.

Q. And you have been sorry ever since you had anything to do with it, haven't you?

A. No, sir.

Q. Which one of the two statements that was made in that jail by Harris do you believe the most?

A. Well I believe what he said when he said he shot Bennett when he came up with the potatoes.

Q. Those potatoes and that balon-y that those officers talked to him about is the only thing that ever convinced you about it?

A. Not the irish potatoes so much and nobody didn't make him say he shot him.

Q. How do you know they didn't?

A. I don't.

Q. How do you know they didn't?

A. I didn't try to put words in his mouth at all concerning the case and I believe when he said he killed them [fol. 104] that he killed them.

Q. You never did go to Dug Davis' house to find out whether they bought the liquor there or not?

A. I did not.

Q. Do you know whether anybody else did?

A. No, sir.

Q. And that is in the confession too?

A. I wouldn't say it is or isn't.

Q. And you never did take L. D. Harris out to the scene where these people were killed and let him show you how he did it?

A. No, sir.

Q. Don't you know there were children out there who were crying out there the morning that terrible thing occurred and don't you know they were brought to the jail

to look at other people who were suspicioned of having killed those poor unfortunate people.

A. I wasn't out there when the children was crying.

Q. I am not talking about at the jail?

A. I have never seen one of them children in the jail.

Q. You were told they were brought there?

A. I have never been told that.

Q. Kept that from you?

A. I never heard about it.

Q. Did they ever bring any child down there to look at Harris?

A. Not to my knowledge.

Q. They told you that the poor dying man said there was a large black negro that killed him—the child said that I believe?

A. I don't know about that. Now one said a negro killed him, one said a big nigger. I don't know. Harris said he killed him.

Q. I will ask you one other question. You have seen other men make statements similar to this?

A. I have seen other people make statements.

Q. And made under similar circumstances?

A. Yes, sir.

Q. And it is part of the third degree to keep them up late at night?

A. I don't know about that.

Q. But you have been told ever since you have been an officer if you keep them up late at night you can get it out of them?

A. I have never been drilled as to that.

[fol. 105] Q. But you have seen statements—very damaging statements made by men even since this crime was committed that when they admitted knowing all about it you knew they were not telling the truth?

A. Well I have in some instances.

Q. And don't you know as an officer of the law in your long experience that people will put it down and they will sign anything when you talk to them long enough?

A. No, sir; I wouldn't swear to that.

Q. Haven't you seen it done?

A. No, I haven't.

Q. Are you sure about that, Mr. Thompson?

A. Yes, sir; I am sure about it.

Q. You don't think they will do it?

A. Not in all cases they won't.

Q. You have had some that just wouldn't break?

A. Well I ain't going to put nothing on nobody to make them break.

Q. Haven't you seen men swear to terrible things in an affidavit, after they had been questioned for two or three days and when they got through and drew a breath of fresh air, said, "It ain't so?"

A. Well you are right about that.

Q. Haven't you seen a man for two or three days stick out that he knew a participant in a horrible crime and then stand flat footed and look at the man and say, "I have framed you. It ain't so?"

A. Yes, sir.

Q. You have seen it done?

A. Yes, sir.

Q. And since this case happened and when bad things like this occurred you take them to Chief Richardson's office and talk to them?

A. I have taken one man up there and talked to him.

Q. That has been since this came about?

A. Yes, sir.

Mr. Williamson: Thank you sir.

Redirect examination.

By the Solicitor:

Q. Mr. Thompson, Mr. Williamson has asked you something about this third degree business. Of course you have heard about the 3rd degree. Did you give this man the third degree this night or any other night?

A. No, sir.

[fol 106] Q. Was there any similarity of a third degree given to him?

A. Not to my knowledge.

Q. Was he at all times treated properly?

A. Yes, sir; he would ask for cigarettes and they were always given him.

Q. Well it isn't a crime to give a man a cigarette when he asked for it?

A. No, sir.

Q. Mr. Thompson, you testified that he said he was with J. T. Medlock?

A. Yes, sir.

Q. And also he was with Wylie Bennett?

A. Yes, sir.

Q. He mentioned those two men's names.

A. Yes, sir.

Q. Did he mention—when he mentioned Wylie Bennett did he say that Wylie Bennett said he shot the Bennetts?

A. Said Wylie told him he shot some white folks.

Q. When did this man tell you that?

A. On Tuesday night.

Q. Did he tell you that on Monday night?

A. No, sir; on Tuesday night.

Q. Up until Tuesday night had he ever connected Wylie Bennett with the crime?

A. Not at all and then he didn't call any names of who was shot.

— Now you were asked about some other fellow confessing as I understand over in Edgefield?

A. Yes, sir.

Q. And this boy—how old is that boy?

A. About 16 years old.

Q. Did that boy tell you he had anything to do with the killing?

A. He said he drove the car.

Q. Did he tell you who was with him?

A. Yes, sir; I think so. I got the name in my pocket book.

The Court: Was that a white boy or darkey?

A. Colored boy.

By the Solicitor:

— Well needn't bother about the names—after he made that statement; did you officers follow that up and take him down to the scene of the crime on these roads where he said he was?

A. I put a negro with him in the jail and he stayed all night and next day he still stuck to his story and next day, we got him in the car and I brought him to Aiken and turned out here by the hospital and hit the Vancluse [fol. 107] Road and I said now show me the store and the first store we got to he said it was the one.

Q. Whose store is that?

A. Mr. Golmar's store.

Q. How far is that from Mr. Bennett's store?

About a mile and a quarter. And I asked him to tell me where he stopped the car and he went around the road about 300 yards and he stopped the car and he said two fellows went back and came back with pistols in their hands. I said what did you do then, and he said we went up the road. I said "Where did you turn out" and we got up to the Bennett Road and he said take this road to the left which was by the old car line and I said "You are sure that is the store down there".

Q. That is the Golmar store?

A. Yes, sir; he said, yes, sir and I said which way to go now and he went the Graniteville Road and hit the cemetery and came back in Highway #78 and came on to Aiken.

Q. In other words he was over a mile from the place he said he carried these men?

A. Yes, sir.

Q. So after that you concluded what?

A. I carried him back to jail and he was in there for using an automobile without the owner's consent and I left him there.

Q. You didn't investigate him any further?

A. No, sir.

Q. Why?

A. I didn't have any confidence in it.

The Solicitor: That's all.

Agreed Summary of Testimony of Wylie Bennett (Colored)

A°Witness for the State in the Case of State vs. L. D. Harris

The witness first met the Defendant on Wednesday night before Mr. and Mrs. Bennett were killed the following Sunday. The meeting had occurred at a beer joint operated by one Mary Davis and during the course of the conversation the Defendant L. D. Harris asked the witness if he had some 38 cartridges and the witness told the Defendant he did not have any such cartridges but that he was going to Augusta the following day, whereupon the Defendant Harris gave the witness \$1.00 with which to purchase this [fol. 107-A] type of cartridge for him. The next time the witness saw the Defendant was about 2:00 o'clock on the same Sunday that Mr. and Mrs. Edward L. Bennett were killed. On that occasion the Defendant together with one J. T. Medlock came to the same beer joint where the witness

and the Defendant had talked the preceding Wednesday night. The Defendant and Medlock were desirous of buying some beer which was refused by the negro woman who operated the place. During this time the Defendant asked the witness if he had purchased the cartridges previously referred to and the witness informed the Defendant that he had not. The Defendant had a 22 pistol and wanted some 22 cartridges and the other witness told the Defendant that he had plenty of 22 cartridges and after informing the Defendant that he had this type of cartridge, he left. The Defendant told the witness that he had exchanged the 38 pistol for this 22 pistol with a woman nicknamed Juker (Lona Belle Cave) which transaction had taken place in a sand bed. The Defendant told the witness that he needed protection and when asked why he had traded pistols stated that "I just had shot my last three cartridges."

"Q. Where did he tell you he had shot them?"

A. He didn't tell me how come he had shot them or where he was when he shot them.

Q. Did he say about where he had any difficulty or trouble with anybody?

A. No, sir; he didn't tell me that."

The witness then denied that he himself had shot anybody that day and denied that he had told the Defendant that he had shot anyone. That same afternoon about 4:00 o'clock the witness together with one J. T. Medlock and the Defendant purchased one half-pint of whiskey; Medlock paying for the whiskey, the Defendant stating that he would pay his part on the purchase when he got some change. Later on in the afternoon the Defendant told the witness that he would give him one dollar if he would call his, the Defendant's, girl friend for him, which the witness did and the Defendant took one dollar out of Medlock's pocket and gave it to the witness. On direct examination the witness testified that the Defendant told him that he had left \$84.00 or \$85.00 with his mother.

[fol. 107-B] The witness, who was 5' 11" tall and weighed 175 pounds had been arrested the day following the murder as a suspect, being detained in custody for three days. He admitted that he had a criminal record extending over a number of years, for violations of laws in numerous states and

at the time of the trial was in jail awaiting trial for "Armed Robbery". This case was later terminated after the conviction of the Defendant Appellant by a directed verdict of "Not-Guilty". It was while he was serving a sentence on the Aiken County chain gang for using an automobile without the owners consent that he was brought "Way late at night" from the Aiken County chain gang to face the Defendant Appellant late Tuesday night, who was being questioned as a suspect and who had implicated this witness in this murder by making a statement that this witness had had possession of the alleged murder weapon at the time of the murder and that the witness had confessed to the Defendant that he had gotten in trouble and had shot two white people with the pistol. Witness, in Defendant's presence, denied these accusations.

Lona Bell Cave (Juka or Chugger) (Colored) witness for the State testified in substance as follows:

She had known Defendant for five years and that in the afternoon on the day of the murder she met him in a sand bed road near the home of one Virginia Matthews, the witness had her 22 pistol and the Defendant had a 38 pistol, which pistols they exchanged; the Defendant telling the witness that his pistol, the 38, was too big or stuck out too much, the Defendant told the witness that he would come for his pistol the next morning and early the next morning the Defendant did come by her house and procure his pistol, returning her 22 pistol to her.

[fol. 107-C] Charlie Williams (Colored) witness for the State testified in substance as follows:

The 38 pistol and one cartridge referred to in this case as being owned by the Defendant was sent to the house of this witness by the Defendant through May Bell Harris, (Defendant's mother), Alberta Mobley and Fred Williams. The witness did not know why it was sent but because of friendship with Defendant was not suspicious at receiving it. The witness, upon demand by the officers, promptly delivered it to them.

Three witnesses for the Defendant (Colored) testified in substance as follows:

The Witness Emanuel Raiford testified that the Defendant fired two shots one day at the sawmill and also that he had given Defendant one cartridge that would fit the gun.

The Witness Clara Myers testified that the Defendant fired one shot from the pistol while at her house.

The witness Eddie Raiford testified that the Defendant fired one shot from the pistol while at this witness's house.

MOTION TO EXCLUDE ALLEGED CONFESSION

The Following Motion Was Made By Mr. Lybrand:

The Defendant moves the Court that the alleged confession of the Defendant which the State has attempted to introduce in evidence be disallowed on the following grounds:

A. That the alleged confession was not freely and voluntarily given, but on the contrary, as a matter of law, is not a confession which the law will recognize as such in that it was extorted by the use of physical force, violence, fear threats, intimidation, duress and under such circumstances as to preclude any possibility that it was free and voluntary.

B. That to admit this alleged confession in evidence under the circumstances disclosed by the evidence would constitute a deprivation of the rights of the Defendant as guaranteed by the 14th Amendment of the Constitution of the United States of America and the right to a fair and impartial trial as guaranteed by the Constitution of the State of South Carolina.

[fol. 108]. The Court refused the motion and stated that defendant's objection to testimony pertaining to the alleged confession would run throughout the trial of the case.

VIRGINIA MATTHEWS, (colored) A Witness for The Defendant, sworn, testified as follows:

Direct examination.

By Mr. Salley:

Q. Where do you live?

A. At Johnston.

Q. Do you know J. T. Medlock's sister?

A. Yes, sir.

Q. Where does she live?

A. At Graniteville.

Q. Does she live near a place down there called Chicks Store?

A. Yes, sir.

Q. And is the place she lives in between Chicks' Store and where J. T. Medlock lives?

A. Yes, sir.

Q. Now on the 28th of April, 1946, the day upon which it is alleged the Bennetts' were killed, were you at J. T. Medlock's sister's house?

A. Yes, sir.

Q. Did you see L. D. Harris on that morning?

A. Yes, sir.

Q. About what time?

A. I can't say exactly but it was around 12 or 12:15—something like that.

Q. Now at that time how was L. D. Harris dressed?

A. As well as I remember he had on some gabardine trousers and either a blue or green shirt.

Q. Did he have on a hat?

A. I don't remember whether he was wearing a hat or not.

Q. Do you remember whether he had on a jacket of any kind?

A. I don't think he did.

Q. Did he have on any piece of clothing that was army clothes?

A. I didn't see anything that was army clothes.

Q. At that time did you see anything unusual about L. D. Harris?

A. No, sir.

Q. Was he nervous?

A. He didn't appear to be to me.

Q. Was he excited?

A. Not as I could notice.

Q. Did he appear to be tired?

A. Not to me he didn't.

Q. Did he appear to be dirty?

A. No, sir.

Q. Did his clothes appear to be blackened as though any [fol. 109] soot or burned wood had been dragged across them?

A. Not that I noticed.

Q. Did he talk normal and as he always does?

A. He talked just like he always talked to me.

Q. How long have you known him?

A. I have known L. D. I would say about ten years.

Q. Did L. D. appear to have any money on him at that time?

A. I didn't see any.

Q. Did L. D. have any blood upon him, upon his hands or clothes?

A. Not where I could see.

Q. About how long did he stay there, Virginia?

A. I don't know just how long he stayed there, but it wasn't very long.

Q. Did you have full opportunity to look at him and did you have a good chance to look at him?

A. He came in and sat down by me and talked.

Q. Where was that—what part of the house?

A. On the porch in the swing.

Q. Was it a clear bright warm day or just tell us what sort of day it was?

A. I don't remember what kind of day it was, but I imagine it was sunny.

Q. Wasn't raining?

A. No, sir.

Q. Now did you see from which direction L. D. came when he came to the house where you were?

A. Well when I could see L. D. he was coming straight up the little road to the house. I couldn't see him until he got almost to the house.

Q. You said this house was between the house of J. T. Medlock's and Chick's store—did he come from the direction of Chick's store or the direction of J. T. Medlock?

A. Well where our house sits up from the road that passes by Chick's store—well the little road comes up from Chicks store.

Q. Did you see J. T. Medlock?

A. Yes, sir; he passed going to the store.

Q. And did he come back?

A. Yes, sir; I saw him when he came back from the store.

Q. Did any of you talk to J. T.?

A. I called him and told him to bring me some ice cream.

[fol. 110] Q. Then he went down to Chick's store?

A. Yes, sir.

Q. Then he came back?

A. Yes, sir.

Q. How much later did you see him?

A. I don't think I saw J. T. any more until next day, after he come back and brought the ice cream to me.

Q. Did he and L. D. stay there or did they leave separately or together or how did they leave?

A. They walked on up the road towards his house together.

Q. Now did L. D. Appear to have any considerable amount of change on his person that you could tell?

A. I didn't see any money at all for I didn't look in his pockets and he didn't show me any.

Q. Did you notice at that time whether or not he had a pistol?

A. No, sir.

Mr. Salley: Take the Witness.

Cross-examination.

By the Solicitor:

Q. You live down in Johnston?

A. Yes, sir.

Q. You were living down here when this killing occurred?

A. I was working at Graniteville and boarding with Mattie Lou Washington.

Q. Are you kin to L. D. Harris?

A. No, sir.

Q. Just friends to him?

A. Yes, sir.

Q. You all been friendly a good long time?

A. Ever since I knowed him.

Q. He called on you and gave you pretty good attention?

A. Not specially. He just came to see us.

Q. You would say good morning and how do you do?

A. Yes, sir.

Q. But on this particular occasion you checked up on him?

A. No, sir.

Q. Wanted to see what kind of clothes he had on?

A. Not specially.

Q. What kind of trousers did he have on?

A. I think it was gabardine.

Q. What color?

A. They were dark color.

Q. Dark green or brown?

A. I don't specially know what color.

Q. You don't know whether they were cotton or home-spun?

A. I think they were gabardine.

[fol. 111] Q. What kind of shirt did he have on?

A. Either green or blue.

Q. How about yellow or red?

A. Wasn't yellow or red.

Q. How about brown?

A. Wasn't brown.

Q. What about his hat?

A. I don't know.

Q. Neck tie?

A. I never noticed his neck tie.

Q. Did he have on a coat?

A. I don't think he did.

Q. Don't you know he did?

A. I don't know.

Q. Don't get mad with me now. He didn't tell you how much money he had?

A. No, sir.

Q. And you didn't ask him?

A. No, sir.

Q. You didn't look him over for a pistol?

A. No, sir.

Q. How long did he stay?

A. I don't know.

Q. Just long enough to say good morning and how I do love you and left?

A. He never told me he loved me.

Q. You wasn't mad about that?

A. No, sir.

Q. You don't know how that boy was dressed, as matter of fact?

A. As well as I remember I told you how he was dressed.

Q. When did you begin to think and plan out how that boy was dressed—that happened nearly—ago?

A. I guess it did.

Q. When did you come down and tell these people how that boy was dressed?

A. I haven't been down here to tell them.

Q. They went over to Johnston?

A. No, sir; they never went there.

Q. As matter of fact, you don't know how he was dressed?

A. As well as I know, I told you.

Q. What time of day did he arrive?

A. It was about 12:15 or somewhere about then.

Q. 12:15 or one o'clock?

A. It was around 12 o'clock.

Q. It was after Sunday School time?

A. I reckon so.

Q. Where was he about Sunday School time that morning?

A. I don't know.

Q. Where was he about 11 o'clock?

A. I don't know.

Q. And while he was there his friend, J. T. Meldlock, came along?

A. Yes, sir; going to the store.

Q. And he is one of your pals?

A. I know J. T. he is related to me.

[fol. 112] Q. He brought you some ice cream and gave it to you?

A. Yes, sir.

Q. And he and Harris went on down the road frolicking?

A. I don't know how they went.

Q. Next time you saw L. D. was when?

A. Monday in this Court.

Q. You haven't seen him since and don't know what he has been doing?

A. No, sir.

Q. As matter of fact you don't know anything about him?

A. No, more than what I have told you.

By Mr. Salley:

Q. You say you can't be absolutely positive about the time?

A. No, sir.

Q. Is it possible it was before 12 o'clock that he came along?

A. No sir; I don't think it was before 12 o'clock.

By the Solicitor:

Q. You can't be positive about anything on that date—nobody talked to you about this case until right recently?

A. No, sir..

Q. Now counsel asked you was he natural—was he sweating or cool and comfortable?

A. I don't know.

By Mr. Salley:

Q. Did any of the officers—Sheriff or others talk to you about this case?

A. No, sir.

Q. Did you see your name in the papers not long after L. D. was arrested?

A. No, sir; I didn't.

Q. Did you see anything about that?

A. No, sir; I never heard my name was in the paper.

Mr. Salley: Come down.

S. O. YONCE, (white) a Witness for the Defendant, being duly sworn, testified:

Direct examination.

By Mr. Lybrand:

Q. Mr. Yonee, where is your home?

A. About 5 miles north of Eureka.

Q. Between Eureka and Johnston?

A. Yes, sir.

Q. What business are you in?

A. Saw milling and farming.

Q. Were you in the saw mill business April 28, 1946?

A. Yes, sir.

{fol. 113] Q. How long prior to that time?

A. About 12 years.

Q. Do you know the defendant, L. D. Harris?

A. Yes, sir; for about 5 or 6 years.

Q. Has he ever worked with you?

A. Yes, sir.

Q. Was he working with you during the period about the 28th of April, 1946?

A. Well he was working with me during the spring of that year.

Q. Was L. D. Harris working for you during the week prior to the time the Bennets were killed on a Sunday?

A. Yes, sir.

Q. Did he do any work for you after that?

A. According to my records he worked two days, Monday and Tuesday after that Sunday.

Q. How long had he worked with you prior to that time?

A. Well I guess close to 12 months.

Q. I will ask you if you paid Harris any money on the 27th of April?

A. Yes, sir; nine dollars and something.

Q. Does your record show that?

A. Yes, sir.

Q. Did you show us those records and do you have his record along with your other employees?

A. Yes, sir.

Q. Approximately how much was he making a week?

A. Well we was getting 50 cents and hour and we tried to work 10 hours a day. His time would run around \$27.00 a week.

Q. Did he owe you some money?

A. Yes, sir.

Q. How much does he owe you?

A. The records show now \$162.40.

Q. That he owed you at the time of this slaying?

A. Yes, sir.

Q. Were you deducting from his wages some of it and applying it on his debt?

A. Yes, sir.

Q. And your record shows he drew how much the week previous to the slaying?

A. \$9.00 and something.

Q. And the balance was applied on his debt?

A. Yes, sir.

Q. You say he worked on Monday and Tuesday following the Sunday?

A. Yes, sir.

Q. Now I will ask you if you paid him any money on either Monday or Tuesday?

A. Yes, sir; I let him \$5.00.

[fol. 114] Q. Did you pay him that or loan him that?

A. I loaned him that.

Q. On what day?

A. I don't remember—just a record of my book, he got \$5.00.

Q. What did you do with the balance of his wages?

A. I applied that on his debt.

Q. When L. D. came to work for you, did he owe someone else some money?

A. I can't say.

Q. You didn't pay someone else any money for him?

A. No, sir.

Q. But that was money that you lent him?

A. He had borrowed some money from another fellow and I paid up his debt.

Q. Did you do anything towards collecting your money that he owed you?

A. No, sir.

Q. Did you have anyone go down to see him?

A. No, sir; I only inquired and tried to find out where he was myself.

Q. And he still owes you that \$162 now?

A. Yes, sir; \$162.40.

Q. Did you hear the prosecuting witness testify as to the statement he made to the officers out here?

A. Yes, sir.

Q. And did you hear them read from the statement that the amount taken out here was \$152?

A. I hear it was \$162.

Cross-examination.

By the Solicitor:

Q. That amount he told he took off the dead body of Mr. Bennett didn't have anything to do with what he owed you?

A. No, sir.

Q. How long did this negro work for you?

A. I would say about a year.

Q. And he got in debt to you for how much?

A. Well he got in debt when I paid Mr. Holmes what he owed him \$200.00.

Q. After he started working for you awhile you paid out some \$200.00.

A. I paid \$180.00 off for him.

Q. And he worked for you how long after you paid that money out?

A. He worked from Christmas on out to this killing.

Q. He still owes you the most of it?

A. Yes, sir.

Q. And did he work for you the week before the killing?

A. Yes, sir.

Q. All the week?

A. I can't say how much but he worked some.

[fol. 115] Q. Does your record show?

A. Yes, sir.

Q. If he worked a whole week he would have \$26.00?

A. Well there was \$5.00 taken out.

Q. Well five and nine would be fourteen dollars?

A. He probably only worked 3 days.

Q. And on Monday and Tuesday he came back?

A. Yes, sir.

Q. Did he get permission from you to leave when he left?

A. No, sir.

Q. Did you know he had gone to Tennessee?

A. I didn't know where he had gone.

Q. You knew he had gone without paying you?

A. Yes, sir.

Q. He left within two days after this killing?

A. Yes, sir.

Q. When is the next time you saw this negro?

A. Next time I saw him was the other day.

Q. After the officers got him?

A. Yes, sir.

Q. Well if he had turned in what he got off of Mr. Bennett, he would have about balanced it up with you?

A. Yes, sir.

Q. But he didn't bring it to you?

A. No, sir.

Q. He jumped you after this thing happened?

A. Yes, sir.

Redirect examination.

By Mr. Lybrand:

Q. On Monday and Tuesday, when you lent him this \$5.00, do you know whether or not he had any other money on his person?

A. I don't.

Q. Do your employees at your saw mill, do they always make full time?

A. Not all of them.

The Solicitor: Your Honor, that is just taking up time.
 Mr. Hybrand: Yes, sir; but I want to bring this out.

Q. When it rains do these men knock off?

A. Yes, sir.

Q. If it rained 2 or 3 days that week would they have drawn their full pay?

A. No, sir.

By the Solicitor:

Your records show it rained how many days that week?

A. My record doesn't show anything.

Q. You would put on your record if he was out on account of rain?

A. Yes, sir.

Q. Must not have rained any?

A. I don't think so.

[fol. 116] WILL BROWN, (colored) a witness for the Defendant, sworn, testified.

Cross-examination.

By Mr. Salley:

Q. Will, why are you wearing those dark glasses?

A. Got my face burned.

Q. Did it affect your eyes?

A. In a way—they run water.

Q. You are not trying to hide anything behind those glasses?

A. No, sir.

Q. Will, where do you live?

A. Mr. native home is in Swainsboro, Ga.

Q. Who do you work for now?

A. Mr. F. W. Bowe.

Q. Where is your place of work now?

A. In Vaucluse now.

Q. Where do you live while you are working at Vaucluse?

A. In Graniteville.

Q. Is that anywhere near where L. D. Harris used to stay down there?

A. Yes, sir.

Q. Now back in April of last year, where did you live?

A. Same place.

Q. How close was that to the house where L. D. Harris was staying?

A. It is right back of where I live.

Q. Have you been working around Vaucluse ever since April of last year?

A. No, sir.

Q. Where did you work sometime when you left Graniteville and went off from there—where did you go?

A. To Nashville, Tenn.

Q. Do you remember the date which you left Graniteville—I will ask you did you go directly from Graniteville to Nashville?

A. No, sir.

Q. Where did you go when you left Graniteville?

A. Swainsboro, Ga.

Q. Do you remember the day you left to go to Swainsboro, Ga.?

A. It was on Sunday.

Q. Do you know whether or not that was the Sunday that Mr. and Mrs. Bennett was killed?

A. No, sir; because I hadn't heard of it.

Q. At the time you left you had not heard of it?

A. No, sir.

Q. Now when did you go from Swainsboro to Augusta on your way to Nashville?

A. On Wednesday night I left Swainsboro about two or two thirty.

Q. When did you leave Augusta to go to Nashville?

[fol. 117] A. I left Thursday at 1:05.

Q. Now between the time you left Graniteville and the time you left Augusta, before going to Nashville, did you hear of the Bennett murder?

A. I heard of it that Thursday morning when I got to Augusta.

Q. Did you go to Nashville alone or with somebody?

A. I taken L. D. with me.

Q. And this was on Thursday?

A. Yes, sir.

Q. Now I want to go back a little bit—did anyone talk to you during the week before you left Graniteville about a job for L. D.?

A. Yes, sir.

Q. Who was the person?

A. His mother.

Q. And when was it she talked to you about that job?

A. Well I can't—

The Solicitor: Your Honor, that conversation would be hardly competent.

The Court: He could state the substantive fact about talking to her, but what she said to him about a job and the details wouldn't be competent.

Mr. Salley: I want to know when she talked to you about that trip?

A. I disremember whether it was Wednesday or Thursday, but it was the middle of the week.

Q. Was this conversation with you concerning a job in any particular place?

A. No, sir.

Q. Now later did you have a conversation with L. D.'s mother—don't say what she said?

A. Yes, sir.

Q. On what day was that conversation?

A. Well it has been so long I can't just recall the exact date.

Q. Well as a result of that conversation did you later see L. D. Harris?

A. Yes, sir; on Sunday morning.

Q. Now I am going to jump a little and go back—did you go anywhere on Sunday afternoon?

A. Yes, sir; went to Swainsboro, Ga.

Q. Did you leave from Augusta?

A. Yes, sir.

[fol. 118] Q. What time did you leave Augusta?

A. Well the bus leaves about 2:30.

Q. Now how long did you wait in Augusta for that bus—was it an hour or an hour and a half?

A. Seems like to me it was hour and a half or two hours.

Q. Now how did you get to Augusta?

A. Went down in Madison when I left the house and waited there for the bus.

Q. Did you wait there long?

A. Maybe 20 or 25 minutes.

Q. And then you caught the bus?

A. And went to Warrenton.

Q. Did you transfer at Warrenville?

A. Yes, sir; and I had to wait in Warrenville for about 10 or 15 minutes and then I went to Augusta.

Q. Then at 2:30 you got on the bus, you had been there an hour and a half or maybe two hours?

A. Yes, sir.

Q. That would be about 12:30 or one when you got to Augusta?

A. Yes, sir.

Q. How long did it take you to make that trip from the time you got on the bus at Graniteville until the time you got to Augusta?

A. About 45 minutes.

Q. Now after you saw L. D. Harris on that Sunday how long was it from the time you saw him until the time you went to catch the bus down there in Graniteville?

A. I guess he might have stayed at the house 30 minutes. I can't say just exactly because I didn't look at the time when he come.

Q. All right. I will ask you what were you doing while L. D. was there?

A. Fixing my breakfast.

Q. Now had L. D. Harris been gone a long or short time or just how long was it from the time he left you until the time you went to catch the bus?

A. I can't say just exactly how long it taken me to eat and then dress and go down to Madison there and catch the bus. I can't say whether it was 30 minutes or lesser or more.

Q. Now were you around here at the last term of Court—when did you get back from Nashville?

A. I think I have been back about two weeks or a little better.

[fol. 119]. Q. Now on the morning that you saw L. D. Harris, what was the general nature of the conversation you had with him—just what were you talking about?

The Solicitor: Your Honor, that would be incompetent self serving.

The Court: I rather think so.

Mr. Salley: I will withdraw the conversation, Your Honor.

The Court: You can establish the substantive fact, but not as to the details.

Mr. Salley: That's all I asked him, Your Honor.

Q: Well as a result of the conversation which you had on Sunday morning, when was the next time you saw L. D. Harris?

A. I guess it was about 7 o'clock Thursday, in Augusta.

Q. Where did you and L. D. go—did you go to any office?

A. Went to the office of Mr. Bowe.

Q. What was given to you and L. D. Harris at the Bowe Construction office?

A. Gave me some money and two tickets.

Q. What did you do with those tickets—did you use them?

A. Yes, sir; I certainly used them.

Q. Did L. D. Harris use them?

A. Me and L. D. together used them.

Q. You caught the train that Thursday and went to Nashville?

A. Yes, sir.

Q. How much money did they give you and L. D. Harris?

A. They gave me \$15.00 for expenses for me and L. D. to go to Nashville.

Q. Did you see L. D. Harris have any money on that trip from Augusta to Nashville?

A. No, sir.

Q. Did you see him spend any money on that trip?

A. No, sir; I didn't because I spent the money.

Q. You were the financial manager for that trip?

A. Yes, sir.

Q. And you signed the voucher for it?

A. Yes, sir.

Q. When you got to Nashville did you go to work for the Bowe Construction Company?

A. Yes, sir.

Q. That is the same company you worked for in Graniteville?

A. Yes, sir.

[fol. 120] Q. Now where did you stay in Nashville?

A. We stayed at 1236 1st Avenue, South.

Q. Who stayed with you?

A. L. D. Harris and several more fellows.

Q. Did you sleep in single beds or double beds?

A. Slept with L. D. Harris from the time we landed in Nashville until they came out there and arrested him.

Q. Do you remember the date they arrested him?

A. I don't remember the date but it was on Friday.

Q. Was it before or after the 4th of July?

A. It was after the 4th of July.

Q. And you stayed with him from that Thursday after the killing until the 4th of July?

A. Yes, sir.

Q. Did you sleep with him every night while you were up there?

A. Yes, sir. Every night.

Q. And did he keep his clothes and all of his personal effects in that same room?

A. Yes, sir.

Q. Did you ever see any money of any size, that is in big bills, other than the money he drew, on the person of L. D. Harris?

A. No, sir.

Q. Did you ever see him with any army clothes?

A. No, sir.

Q. You had seen him around in Graniteville before you left?

A. Yes, sir.

Q. Did you ever recall seeing him with any army clothes on them?

A. No, sir.

Q. All right. On Sunday morning that you and L. D. were together in Graniteville, did he seem in any way nervous or excited?

A. No, sir.

Q. Do you recall what kind of clothes he was wearing at that time?

A. I can't just go on to say what grade of clothes but seems like it was a kind of shark skin pair of pants and a blue shirt.

Q. Was he wearing any army clothes that morning?

A. No, sir; wasn't no army clothes.

Q. Now there has been a lot of talk about L. D. confessing to a crime. From the Thursday after this thing until the time he was arrested did he ever talk to you or confess any crime?

[fol. 121] A. No, sir; he never did.

Q. Did you ever say anything to L. D. Harris about the Bennett murder?

A. No, sir.

Q. Did he ever say anything to you about it?

A. No, sir.

Mr. Salley: Take the witness.

Cross-examination.

By the Solicitor:

Q. What kin are you to Annie Brown?

A. Not any.

Q. You are acquainted with Annie?

A. Yes, sir.

Q. You are from way down in Georgia?

A. Yes, sir.

Q. When did you get acquainted with L. D.'s mother—get on such intimate terms with her?

A. Well I just in passing seen her.

Q. She lived close to you?

A. Yes, sir.

Q. But you were way down from Georgia and came up here to make arrangements to transport her son to Nashville?

A. Well we were working.

Q. Well you did that?

A. Yes, sir.

Q. Slept with him every night?

A. Yes, sir.

Q. Why did you sleep with him every night?

A. I was working with him.

Q. Made him sleep with you every night?

A. No, sir; I didn't make him sleep with me.

Q. You were in Graniteville on Sunday when the killing occurred?

A. Yes, sir.

Q. You remember distinctly about it now?

A. No, sir; I didn't hear about it until Thursday.

Q. You know what time it happened?

A. No, sir.

Q. What time did you see Harris on that Sunday?

A. I don't know exactly what time it was, but he came over to my house.

Q. He came to your house on the day of the killing?

A. They say that day.

Q. All right, but you heard about it and you have always known what time that killing happened, about 10:30 or 11 o'clock on the 28th day of April?

— That's what they say.

[fol. 122] Q. And you saw this boy Harris on that Sunday, and didn't know what time of day it was?

A. No, sir.

Q. Don't know whether it was dark or daylight or when?

A. I know it was day light.

Q. He didn't go to Swainsboro with you that Sunday?

A. No, sir.

Q. But you made arrangements to take him there on Thursday and highball to Tennessee?

A. No, sir; I —

*Q. You made those arrangements with his mother?

A. She asked me to get him a job.

Q. You knew where he had been working?

A. No, sir.

Q. Why you knew him before that time?

A. No, sir.

Q. Hadn't known him before that time?

A. I knew him when I saw him.

Q. You knew he had been working for Mr. Yonce and knew he owed him a lot of money and didn't ask him if it would be all right?

A. No, sir.

Q. You just slipped him off?

A. I didn't slip him off.

Q. Well you left here immediately after the Bennetts were killed?

A. Left immediately after they say they were killed.

Q. And you didn't come back until he sent for you to come over and testify?

A. Came back when Mr. Bowe brought me.

Q. When did you first talk to anybody about how this boy was dressed up on Sunday morning of the killing?

A. About a couple of weeks ago.

Q. That was about a year ago when you saw him?

A. Yes, sir.

Q. And you were wearing those same glasses at the time?

A. Yes, sir.

Q. How long have you been wearing them?

A. Near three years.

Q. Are they green or brown?

A. No, sir.

Q. It shows everything white through those glasses?

A. No, sir.

Q. You can tell what color a man's britches are out here now?

A. Yes, sir.

Q. What kind has he got on now?

A. Got on grey ones.

Q. You remember after they brought you back down here and after this boy got in trouble months and months after, you could tell them what kind of clothes he had on [fol. 123] that day?

A. Yes, sir.

Q. What kind of hat did he have on?

A. I don't remember.

Q. Did he have on shoes?

A. I never noticed his shoes.

Q. Did he have on any underclothes?

A. I don't remember.

Q. How did you dress him up before he went to Nashville?

A. I didn't dress him.

Q. What kind of clothes did he have on then?

A. I don't remember.

Q. That is what I thought. You remember about buying his ticket and all about it, but you don't remember what kind of clothes he had on when he left?

A. No, sir.

Q. You saw him on the day of the killing?

A. Yes, sir.

Q. You agreed with him to get him a job, he and his mother?

A. Yes, sir.

Q. And you left for Nashville, Tenn., on Thursday after the killing?

A. Yes, sir.

Q. And he didn't come back here until the officers brought him back?

A. Yes, sir.

Q. And you didn't come back until they brought you back to testify—that's right?

A. Until Mr. Bowe brought me.

Q. Why was it you opened up there on Thursday with this boy?

A. Because they told me on that Saturday when they paid me for my work.

Q. What is his mother's name?

A. Mary Bell Harris.

Q. Where is she?

A. I don't know.

Q. When is the last time you have seen her?

A. Sunday morning, when I left going home.

Q. To Swainsboro, Ga.?

A. Yes, sir.

Q. You don't know where she is now?

A. No, sir.

Q. You handled all of this boy's money from the time you took charge of him on Sunday of the killing up until the time they brought him back from Tennessee?

A. No, sir; I didn't handle it.

Q. But you watched to see what he had?

A. Yes, sir; I was with him.

Q. Where was that boy at the time the killing occurred?

[fol. 124] A. I don't know.

Q. Where were you?

A. Home, I guess.

Q. In Graniteville?

A. If it was that Sunday morning, I was at home.

Redirect examination.

By Mr. Salley:

Q. Would you mind taking off your glasses that Mr. Carter had so much to say about?

The Solicitor: You started it.

(Witness takes off glasses)

By Mr. Salley:

Q. Mr. Carter has said you were his guardian—the money was given to you by the Bowe Construction Company and you went to Nashville?

A. Yes, sir.

Q. When you got to Nashville, did you handle L. D.'s money or not?

A. No, sir.

Q. Were you here at the last term of Court when Mr. Carter was so anxious to try this case?

A. No, sir.

Q. Did you come back to Graniteville for the purpose of being a witness in this case?

A. No, sir.

Q. When you came back to Graniteville did you know you were going to be a witness in this case?

A. No, sir.

Q. Why did you come back?

A. Because we finished working up there and it was too cold to pour concrete and we come back down here to finish this job for it was too cold up there.

Q. Is it practical to pour concrete in freezing weather?

A. No, sir; not without you want to throw away money.

Q. How long have you been working for the Bowe Construction Co.?

A. Ever since 1944.

Q. Did you make any attempt to conceal the fact that L. D. Harris was leaving Graniteville?

A. No, sir.

Q. Did L. D. Harris use the name of L. D. Harris before he left Graniteville and after he left?

A. Yes, sir; that is the name he was going under here and the name he went under there, all the time.

[fol. 125] Q. Do you know of your own knowledge how much he was making up there?

A. No, sir.

Q. How much were you making?

A. 60-cents an hour when I first went there.

Q. Do you know of your own knowledge whether he was making more or less than you were?

A. No, sir; I don't.

Q. How many hours a day did the people work on that job a day including L. D. Harris?

A. We worked 10 hours a day.

Q. Did you get straight time for the whole 10 hours?

A. Got straight time for 8 hours and time and a half for the other two.

Q. Now on Saturday did the job go on on Saturday?

A. Yes, sir.

Q. How did you figure the time on Saturday?

A. If we made 10 hours straight until Thursday, Friday and Saturday was time and a half all the way through.

Q. So 60¢ an hour, do you know that L. D. was making at least that much?

A. Yes, sir; I know he was making that much.

Q. And using the schedule you figure it, a man could make pretty good money during the week?

A. Yes, sir.

Q. You didn't pretend to be L. D.'s guardian?

A. No, sir.

Q. The Bowe Construction Company gave you the money?

A. Because I had been working there longer.

Mr. Salley: Thank you—come down.

EDDIE REE MIMS, (colored) witness for the Defendant, sworn, testified:

Direct examination.

By Mr. Lybrand:

Q. Where do you live?

A. About four miles beyond Johnston.

Q. Is that towards Edgefield from Johnston?

A. Yes, sir.

Q. How long have you lived there?

A. About 17 years.

Q. You were living there in April of last year?

A. Yes, sir.

Q. Are you acquainted with L. D. Harris?

A. Yes, sir.

Q. How long have you known him?

A. About 4 years.

Q. Where did you know him?

A. I learned him around Johnston.

Q. Did you see him occasionally?

A. On week ends and sometime during the week.

[fol. 126] Q. Were you and L. D. good friends?

A. We were.

Q. Did you pass around together?

A. Not too much but we would be around Ticks Cafe.

Q. Is that a gathering place for colored people around Johnston?

A. Yes, sir.

Q. Did you at any time lend this boy any money and did he lend you any money?

A. Yes, sir.

Q. What amount of transactions would they involve?

A. Not much. Around 50 or 75 cents.

Q. Did you lend him any money around May 1st, 1946?

A. Lent him a quarter the last time I seen him to get back home.

Q. Where was he living at that time?

A. I guess in Graniteville.

Q. Was that in the daytime or night?

A. It was in the night.

Q. Was it on the week end or middle of the week?

A. About the middle of the week.

Q. You said that was the last time you had seen L. D.?

A. Yes, sir.

Q. Did he ever pay you that quarter back?

A. He didn't. He told me the last thing he was planning to go away and we use to kid each other about girls and he told me to tell the girls he was going.

Q. Did he tell you where he was going?

A. No, sir.

Q. Did you ask him?

A. I did not.

Cross-examination.

By the Solicitor:

Q. You and L. D. were bosom friends?

A. Good friends.

Q. Stayed together and lent each other money?

A. We didn't stay together.

Q. Well you stayed together when you were running around and on your frolics?

A. We didn't do too much running around.

Q. And the last time you saw him was on what day?

A. Wednesday, as near as I know—Wednesday or Thursday.

Q. Why don't you know if you were such good friends and he was fixing to go away?

A. It was Wednesday or Thursday—sometime about the middle of the week.

Q. That would have been the 1st of May?

A. That's right.

[fol. 127] Q. Thursday was the 1st?

A. I don't know.

Q. How do you know it was the 1st of May?

A. The reason I know it was the 1st of May I had heard of the killing and it was shortly after that.

Q. When was it you last saw him?

A. Sometime about the 1st of May.

Q. You don't know whether it was May 1st or April 29th.

A. It wasn't April 29th.

Q. Now you say he was planning to go away?

A. That's right.

Q. Didn't tell you where he was going or how long he would be gone?

A. That's right.

Q. You loaned him a quarter to start on his journey?

A. I lent him a quarter to get home.

Q. He had been working for Mr. Yonce?

A. Yes, sir.

Q. He wasn't working on May 1st?

A. It must have been around May 1st, I am not positive.

Q. You came over to testify here, didn't you—why don't you know positive?

A. I told you what I know.

Q. You just remember you met him sometime and don't know where he was on Sunday morning, April 28th?

A. I don't know.

Q. Where was he Monday morning?

A. I don't know.

Q. Where was he Tuesday?

A. I don't know.

Q. Where was he Wednesday?

A. I don't know.

Q. Where was he Thursday?

A. I don't know.

Q. So you don't know a thing about it, do you?

A. I know when I seen him last.

By Mr. Lybrand:

Q. You say you had been knowing L. D. how long?

A. At least 4 years.

Q. And you saw him from time to time at Johnston?

A. Yes, sir.

Q. And you and L. D. associated with one another in and about Johnston?

A. Yes, sir.

Mr. Lybrand: Come down.

[fol. 128] (Testimony of the Defendant, L. D. Harris, given in the presence of Jury.)

L. D. HARRIS, (the Defendant) sworn, testified as follows:

Direct examination.

By Mr. Salley:

Q. L. D. Harris, you are the defendant in this case?

A. Yes, sir.

Q. Now I want you to talk slowly and talk carefully. There is no hurry—we have all the time we want. Now, L. D. you have heard of the various things in this case, that Mr. Bennett was killed on the 28th of April, 1946?

A. Yes, sir.

Q. And that was on Sunday morning?

A. Yes, sir.

Q. Where did you spend the night of Saturday, just before he was killed?

A. I spent the night with Clara Myers, my aunt.

Q. She was on the stand the other day?

A. Yes, sir.

Q. Well, you were at Clara Myers, did you have this pistol?

A. I didn't have it that Saturday night. I had it the Saturday night before then. I spent practically every Saturday night there.

Q. Then on one of those Saturday nights, did you fire that pistol?

A. Yes, sir; the Saturday night before then.

Q. Where did the bullet come from that you fired that day?

A. That was one of the last bullets. I got two from Emanuel Raiford. One automatic bullet and one that would fit that pistol.

Q. Would the automatic ball fit this pistol?

A. No, sir; it would slip down in the revolver.

Q. Could that automatic bullet be fired in this pistol?

A. I didn't fire it. I tried to fire it and couldn't.

Q. What happened to that one?

A. When I left home it was down there at the house.

Q. Now on Sunday morning the day this thing happened, what did you do?

A. I caught the bus that Sunday morning—I don't know what time.

Q. But you caught the bus?

A. Yes, sir.

Q. Where did that bus go?

A. It came on down the road and stopped and picked up a little girl and she got off and went to her father's—

[fol. 129] Q. I don't think it is very important as to the details all along the route, but where did you get off the bus?

A. In front of Mr. Kenney's store at Graniteville.

Q. After you got off the bus, where did you go?

A. Went to the house I was living at.

Q. What did you do there?

A. First thing I did, I washed my face and eat breakfast.

Q. When you finished breakfast what did you do?

A. I washed my head after I finished breakfast and fixed my hair and I went over to Will Brown's.

Q. Can you remember what time you were at Will Brown's?

A. Well I can't exactly remember but it was sort of late in the day.

Q. How long did you stay at Will Brown's?

A. Well I went there when he was cooking breakfast and I stayed until after he finished.

Q. Then what did you do?

A. I turned around and came back home.

Q. What did you go to Will Brown's for?

A. He had left word with my mother he wanted to see me to go to Tennessee and I went over there to talk to him and when I came around there that Saturday it was sort of late and I came back to see him on Sunday morning.

Q. You talked to your mother when?

A. That Saturday night.

Q. After you talked to your mother, where did you go?

A. I went back to Johnston in my Uncle's car.

Q. And spent the night at Johnston and came back home the next morning?

A. Yes, sir.

— When you left your house where did you go?

A. To Virginia Matthews.

Q. Is that the girl who was on the stand and testified?

A. Yes, sir.

Q. Who else did you see at her house?

A. I seen who lived there. I seen another fellow from Philadelphia, William Hogan.

Q. Was J. T. Medlock there?

A. He came along after I got there.

Q. And did J. T. Medlock stay there the first time you saw him, or go off and come back?

A. No, sir; he didn't stay there. He went off and came back.

Q. Which way did he go to?

A. The same way I come back.

[fol. 130] Q. Is there a store down there?

A. Yes, sir; Miss Chicks.

Q. Did he go in the direction of that store?

A. Yes, sir.

Q. And did he return in a few minutes?

A. Right.

Q. Where were you in the house while you were there?

A. I was sitting in the swing with Virginia Matthews.

Q. How long did you stay there?

A. Well I don't know exactly what time I got there, but it was about 12:30 when I got there, but I know I stayed there over a half an hour.

Q. Now don't say what was said between you and Virginia but I will ask you did you and Virginia talk?

A. Yes, sir.

Q. You were sitting besides her in the swing?

A. Yes, sir.

Q. And you talked to J. T. Medlock?

A. Yes, sir.

Q. Then when you left there, where did you go?

A. Went to J. T.'s house.

Q. Who did you go with?

A. J. T.

Q. And how far did J. T. live from Virginia's house?

A. I guess about 250 yards.

Q. Is it up that hill and across the old trail lane?

A. No, sir; there is a little road come between J. T.'s house and her house and J. T. lives on up above there.

Q. He lies a little bit up the hill from Virginia.

A. Yes, sir.

Q. When you got to J. T.'s house, what did J. T. do?

A. First thing he did he carried the packages in the kitchen and got his shoe polish and went to shining his shoes.

Q. Did you shine your shoes?

A. No, sir.

Q. What else did he do?

A. I guess he took a bath. He was in the room.

Q. You didn't see him take a bath?

A. No, sir.

Q. How long was he in the room?

A. He was in there about an hour. In other words, he was dressed when he came out.

Q. Did he have on the same clothes when he came out that he went in there with?

A. No, sir; he was dressed.

Q. Did you do anything else at J. T.'s?

A. No, sir; I didn't.

[fol. 131] Q. Where did you go when you left J. T.'s house?

A. I went back to my house.

Q. What did you do there?

A. Went back there and I got that same pistol and put it in my pocket. I hadn't had it in my pocket.

Q. You hadn't had it in your pocket before that day?

A. No, sir.

Q. And then how long did you stay at your house?

A. About 30 minutes.

Q. Did you go anywhere else or talk to anybody else, or what else did you do while at your house?

A. Just stand around the house laughing and talking to Miss Carrie and mother.

Q. And you were all together about how long?

A. I wasn't there but about 30 minutes. I just sat around talking a little bit.

Q. When you left there where did you go?

A. I and J. T. left there and went to Fox's Crossing and turned and went down to Miss Neff's.

Q. Do you know Lonnie Bell Cave or Jugger as they call her?

A. Yes, sir.

Q. Did you see her anywhere?

A. After I left home and got in that little path that goes between those houses, I met her.

Q. Do you know Lonnie Bell Cave, or Jugger?

A. That's right.

Q. Did you see her anywhere?

A. After I left home and got in that little path that goes between those houses, I met her.

Q. Anybody call that the sand bed?

A. Well it is a little sandy place.

Q. Did you have any transaction or conversation with Lonnie Bell?

A. Sure I did.

Q. Well what was done there?

A. Well I just asked her—I met her there and asked her was she going home and she said "yes" and I said, "I ain't got on no clothes to take this pistol and if she had one, and she said she had one in her pocket book and I told her to let me see it and she showed it to me and I said, "This is the smallest" and you take mine back to the house and keep it until I come after it.

Q. Don't talk so fast—if I do this, (indicating) just slow down. Did you tell her then when you were coming after it? [fol. 132] A. I said, "In the morning before I go to work."

Q. What happened to those two pistols there?

A. She gave me hers and I gave her mine.

Q. Then did you stay around there any longer with Lonnie Bell?

A. No, sir.

Q. Where did you go?

A. Went a few steps—little bit further and I and J. T. bought a pint of whiskey.

Q. How much money did you have with you at that time?

A. Not over \$2.50.

Q. Did you have any other money anywhere?

A. No, sir; I didn't.

Q. All right, you and J. T. bought a pint of whiskey?

A. Yes, sir.

Q. How much did you pay, if anything, towards that pint of whiskey?

A. I paid \$1.25.

Q. And then what did you do with the whiskey?

A. Well just a ergwd of them there and me and J. T. drank just what we got and whosoever wanted a drink we gave them a drink.

Q. Where did you go from there?

A. We went back to Wylie's.

Q. Is that Wylie's house or who owns that house?

A. I don't know, sir.

Q. Is that a swing joint or cafe?

A. Well like Miss Neff said here and it sits up in front.

Q. You are talking about Wylie who?

A. Wylie Bennett.

Q. Who else lives there?

A. Miss Mary.

Q. That is where Mary Davis lives?

A. Yes, sir.

Q. And her joint or rest-urant or night club is right next to that?

A. Yes, sir.

Q. Who did you see when you went to Mary Davis' house?

A. Nobody but Wylie.

Q. Did you have any conversation with Wylie?

A. Well, yes, sir; I talked to him.

Q. Did you try to buy anything there?

A. Tried to buy some beer.

Q. Did you have any luck?

A. No, sir; luck was poor.

Q. Didn't get anything?

A. No, sir.

[fol. 133] Q. Did you have any other conversation there?

A. I stayed around there and laughed and talked until that woke Miss Mary up and she ran us out of the house then.

Q. Do you know where she was?

A. She was up in the house part. Wylie said she was in the bed.

Q. You heard her say something?

A. Yes, sir.

Q. And as consequence of what she said you and Wylie got out of there?

A. Yes, sir; the three of us went outside.

Q. Where did you and Wylie and J. T. go?

A. I and J. T. walked back over next to Fox's Crossing and went back to somebody's house—I don't know who.

Q. Had you been walking or riding?

A. We were walking.

Q. After you got off the bus, had you been riding that morning?

A. No, sir.

Q. Whose place was that you went to?

A. I don't know—some lady folks.

Q. What did you do there?

A. Just sat down and talked a while.

Q. Who was there?

A. Two girls—I didn't know nary one of them names.

Q. Was there anything to spend money for there?

A. No, sir.

Q. Did you spend any money there?

A. No, sir.

Q. Did you spend any money at Mary Davis'?

A. No, sir.

Q. Now how long did you stay at the place where the two girls were?

A. An hour, I imagine.

Q. And when you left there who was together?

A. I and J. T.

Q. Where was Wylie?

A. We left him at the house. He had never changed clothes—left him at Mary Davis' house.

Q. Then after you left the place where the two girls were, where did you go?

A. Went back over to Wylie's then.

Q. And then did you have a conversation with Wylie?

A. Yes, sir; we started riding then in Wylie's car.

Q. Where did you go?

A. We went down below Wylie's house and turned up and got a drink of whiskey.

Q. Who paid for that?

A. I and J. T.

[fol. 134] Q. How much did you pay?

A. I paid 60¢ and J. T. 65¢.

Q. I presume that whiskey was drunk by somebody?

A. Yes, sir.

Q. After you bought the whiskey where did you go?

A. We turned around and left there and came on back and my cousin Henry Butler, he came up and we stopped and talked to him about 15 minutes.

Q. Where did you go from there?

A. I asked him where he was going and he said he was going to Adam Newsome.

Q. Did you go to Adam Newsome's with him?

A. After I came to my house and put J. T. out at his house and I came on back with Wylie.

Q. Where did you and Wylie go?

A. Wylie let me out at Miss Mary's and I went to Adam Newsome's house.

Q. How long did you stay there?

A. Until sun down.

Q. Did you come to Aiken that night?

A. No, sir.

Q. Did you go to Aiken any time between then and the time you went to Nashville?

A. No, sir.

Q. Well some people say you went out to the trash pile on the Thursday night after this Sunday. Is that true?

A. No, sir; that was before Sunday.

Q. Now did you go to the trash pile one night?

A. I went to the trash pile before that killing was.

Q. Who was with you on that trip to Aiken when you went to the trash pile?

A. I and Miss Mary and Lueile and Brunson.

Q. You and Lueile Johnson and Mary Davis and Brunson, otherwise known as Pete Alexander McBurnett Brunson?

A. Yes, sir.

Q. In whose automobile?

A. In Brunson's.

Q. Did you take Mary with you?

A. We put her out at the depot.

Q. Where did you go then?

A. To Chauffer's Inn.

Q. Did you see anybody?

A. We seen a couple of girls but I didn't know her and didn't see her until she got up here on the stand.

Q. The one who testified the other day—she went with you to the trash pile?

A. Yes, sir.

[fol. 135] Q. Was a pistol fired out there that night?

A. Yes, sir.

Q. Which one?

A. That large one—that 38.

Q. How many times was it fired?

A. Wasn't fired but once, because there wasn't but two balls in it.

Q. Who fired it?

A. Brunson did. The girl tried to fire it first, and she couldn't and Brunson told her to hand it to him and he fired it.

Q. Mary testified that when you got the pistol from her that there was five cartridges in it.

A. It was.

Q. Did that gun hold 5 cartridges?

A. Yes, sir.

Q. It ain't a six shooter but a five shooter?

A. Yes, sir.

Q. Now you say there were two balls in it the night you went to the trash pile?

A. Yes, sir.

Q. Had you bought or obtained in any way any other bullets for that gun?

A. No, sir. I had tried to but I couldn't find any and I asked Wylie could he get me any and he said he was going to Augusta and would try to get me some and I gave him a dollar.

Q. Did he ever give you any bullets?

A. No, sir.

Q. But you said that Emanuel Raiford did give you two bullets?

A. Yes, sir.

Q. And one was an automatic and wouldn't fit that gun?

A. Yes, sir.

Q. So you got 5 bullets with the gun and one more that would fit it from Emanuel Raiford—that made six bullets?

A. Yes, sir.

Q. Tell these gentlemen what happened to the six bullets?

A. Well first one, I know I shot one to the saw mill and I shot one over at the trash pile—

Q. That's two.

A. I shot one at my aunt's and shot one at Eddie Raiford's and John Wise's; and the last one was with the pistol when I let him have the pistol.

Q. What happened to the 6th one?

A. You will have to ask them that got the pistol. It was left in the pistol.

Q. Those are the six bullets that you got and only six bullets you ever had for that gun?

A. Yes, sir.

[fol. 136] Q. Mr. Carter has introduced in evidence here a bullet that was taken from the body of Mr. Bennett. I ask you did that bullet come from that gun?

A. No, sir. It ain't come from that one.

Q. And have you heard a man say it came from that gun?

A. I heard him say it but still he just said it. He ain't telling the truth.

Q. Now you are absolutely positive you have had no other gun for that bullet?

A. I am sure of it. In other words I wouldn't get up here and swear a lie.

Q. Now they have talked about you spending a lot of money on your trip to the trash pile. Now you say that was before this thing happened?

A. Yes, sir; that was before, because I didn't know Wylie Bennett whensoever I come over here and I had to learn him when these people got killed.

Q. How much money did you spend that night?

A. I didn't spend over \$4.00. I had \$2.00 when I went back home.

Q. How much money were you making when you were working for Mr. Yonce?

A. Well if I worked all week make from \$25.00 to \$27.00.

Q. And now much would be take out of your pay to apply on what you owed him?

A. He gave me half I made.

Q. So if you made \$25.00 he would give you how much?

A. \$12.50.

Q. How long did you work with Mr. Yonce?

A. From January up to the 31st of April or 30th of April.

Q. Now Mr. Yonce stated you owed him \$162. and a few cents. Do you agree with him?

A. That's about right.

Q. I don't think we need to go into why you owned him, but you did owe him \$162.00 and some odd cents at the time you left him?

A. Yes, sir.

Q. Now on the day following the day these people were killed, what did you do?

A. I worked.

Q. And the day after that, what did you do?

A. I worked.

Q. And on that day did you have any business transaction with Mr. Yonce?

A. The next day or Tuesday I borrowed \$5.00 from him.

Q. All right, on Wednesday, did you work?

A. No, sir; I went to Johnston.

[fol. 137] Q. Did you go up to see anybody there particularly?

A. Well, yes, sir; I went to see a girl.

Q. Well at that time had you planned to leave Graniteville?

A. Yes, sir; I had been planning when they first left Graniteville when some of them did, but I didn't.

Q. But you did not leave then?

A. No, sir; I was working that day and I didn't know they were going to leave.

Q. But you and Will Brown talked about the trip that Sunday?

A. Yes, sir; and if it hadn't been for that I would never have been gone.

Q. And the day following the day you went to Johnston was when you took the train out of Augusta to Nashville?

A. Yes, sir.

Q. Did you tell them good bye?

A. Yes, sir.

Q. Did anybody ask you where you were going?

A. No, sir.

Q. Did you see Eddie Ree?

A. I saw him that night.

Q. When did you first see him?

A. I first saw him in the pool room and I shot a few games and I lost all the money I had to come home from Johnston except 26¢ and I borrowed a quarter from him to get home.

Q. Did you ever pay him back?

A. No, sir; I did not.

Q. Well I believe you and Eddie Ree had similar financial transactions to that?

A. Yes, sir.

Q. And the payment back was I lend you some now and you lend me some later?

A. Yes, sir; wasn't no pay back—just whoever borrowed it.

Q. What did you do with that quarter you borrowed?

A: I went up town and played the pickalo until it closed and then I went to catch the bus for Graniteville.

Q: And spent the night where?

A: At Graniteville.

Q: Next morning where did you go?

A: To Augusta to meet Will Brown.

Q: After you met Will Brown did somebody give you and Will some money?

A: Yes, sir; couple of tickets and \$15.00. Got it from Mr. Bowe's office.

Q: Is that the first time you had any connection with W. [fol. 138] F. Bowe Construction Company?

A: Yes, sir; first time they ever seen me.

Q: And who was the money and tickets given to?

A: To Will:

Q: For he had been working for them before?

A: Yes, sir.

Q: Did you have any money on that trip to Nashville?

A: I got one dollar from my mother to pay my way to Augusta and it cost me 30¢ and I had 70¢ out of that dollar.

Q: Did you know when you went to Nashville how much money you would be paid?

A: I know they would start me off at 60¢ up to 75¢.

Q: Did you know how many hours a week you would be on straight time and how many hours over that you would be paid time and a half?

A: Yes, sir.

Q: Did you figure that would amount to more than you were making for Mr. Yonce?

A: Yes, sir; it would for I could make as much on Friday and Saturday as I could make the rest of the week with Mr. Yonce. That would be \$12.50 on Friday and Saturday.

Q: Did you conclude that was a better job in Nashville?

A: Yes, sir; it was a better job and not as hard a job.

Q: Did you aim to pay back Mr. Yonce what you owed him?

A: Yes, sir; for when they arrested me I asked them what did they have me for and they said they didn't know and I said, "Ain't but one thing and that's some money I owed Mr. Yonce" and they asked me how did I get the money—forged a check and I said, "I borrowed it from one man and he paid it back."

Q: Who did you borrow it from?

A. Mr. L. D. Holmes and Mr. Yonce had paid him back for me.

Q. You heard Mr. Ferguson testify you went to work for him at Nashville?

A. Yes, sir.

Q. Did you work fairly regularly?

A. Yes, sir.

Q. Were your pay checks bigger or smaller than when you were working for Mr. Yonce?

A. Well, it would be over twice as big if I could get work every hour.

The Court. Isn't that already in—you have the record on that?

Mr. Salley: Yes, sir.

[fol. 139] The Court: They speak for themselves.

Mr. Salley: All right, we won't go into that.

Q. Now, L. D., we are going to start about the time you were arrested in Nashville.

A. Yes, sir.

Q. Do you remember the day?

A. Yes, sir.

Q. When you were arrested was any warrant read or shown to you?

A. No, sir.

Q. Who arrested you?

A. I don't know. All I know just some plain clothes cop.

Q. You were put in the local jail and stayed there until when?

A. Yes, sir; until about 3 or 4 o'clock.

Q. Who came and got you then?

A. Since I came to know them it was Mr. Fallaw and Mr. Thompson.

Q. When they came over there was any warrant read to you?

A. No, sir.

Q. Was it shown to you?

A. No, sir.

Q. Were you told for what you had been arrested?

A. No, sir; I wasn't.

Q. On the way back did you go by anywhere?

A. Yes, sir; I kept on after them until they went by the house and got my suit case.

Q. And you brought it back to Aiken with you?

A. Yes, sir.

Q. On the way back did either of these gentlemen accuse you of the crime of which they have accused you today about this murder?

A. No, sir.

Q. Did they mention that crime?

A. No, sir.

Q. Did they mention any crime or offense?

A. Well they didn't mention anything but the pistol when they got over about Chattanooga.

Q. What did you tell them?

A. I told them mine was a 32.

Q. Had you once owned a little 32?

A. Yes, sir.

Q. When is the last time you saw that 32?

A. When I got Annie's 38.

Q. When was that?

A. About February.

Q. Did they ask you about that 38 pistol?

A. Yes, sir.

Q. Did you tell them anything about the 38 pistol?

A. Yes, sir.

Q. What did you tell them?

A. I told them I left it at home and left word with my [fol. 140] mother to take it to Miss Tick and have her to give it to Charley Williams.

Q. What time did you arrive at Aiken?

A. It was after 4 o'clock.

Q. Were you told at that time upon what charge you were being held?

A. Not until I got in the jail. Some of these other colored fellows had heard about it and said that is what I was held for.

Q. For what?

A. For murder.

Q. That is the first you heard about it?

A. Yes, sir.

Q. But the officers never told you about it on Sunday?

A. No, sir.

Q. All right. On Monday what was your first conversation with the officers of the law?

A. First conversation was with Mr. Fallaw and that other big straight tall fellow and Mr. Baker brought me down in this building.

Q. That is in the Sheriff's office in this building?

A. Yes, sir.

Q. What happened?

A. He picked up a little piece of yellow paper and went to reading it and said, "That is the fellow who killed Mr. Bennett" and I said, "No, sir; that is wrong."

Q. Did they tell you anything else?

A. No, sir; he just stood up there like he was reading. I ain't heard him say nothing. I ain't seen him working his mouth. I know you can read without working your mouth.

Q. You can read to yourself without working your mouth. I think we understand that. Was any other question asked you or any accusation made against you?

A. Not at that present time.

Q. How long were you down in the Sheriff's office?

A. Not over 25 or 30 minutes.

Q. When you went back to the jail did you have supper?

A. Yes, sir.

Q. After supper did anybody talk to you?

A. Yes, sir; Mr. Price and Mr. Baker.

Q. What happened that night?

A. That wasn't all talked—more than that talked.

Q. What's that?

A. More than Mr. Price and Mr. Baker talked to me that night. Mr. Long, that large fellow sitting over there.

Q. He is the one they made stand up two or three times [fol. 141] the other day—over by the window?

A. Yes, sir.

Q. Who else was there?

A. I can't remember whether Mr. Will was there or not. Four or five of them.

Q. All of them little tiny men?

A. No, sir; all of them from 160 to 250 pounds.

Q. Then what did they do to you or say to you, or what happened to you that night?

A. They kept asking me about that murder. I told them I didn't know anything about it.

Q. Do you claim anybody hit you that night?

A. No, sir.

Q. That was Sunday night?

A. No, sir; that was Monday night.

Q. Well I am sorry, I thought it was Sunday night.

A. No, sir; Monday night.

Q. Did you say the Sheriff was there?

A. Yes, sir.

Q. And Mr. Long?

A. Yes, sir.

Q. Was Chief Richardson there?

A. I can't remember and I wouldn't say. I don't believe he was. I don't want to tell something on him that isn't so.

Q. Of course not. Did they accuse you at that time of killing Mr. Bennett?

A. Yes, sir.

Q. Did you admit it or deny it?

A. I denied it for I didn't do it.

Q. After you denied it, did they turn you loose?

A. They kept me and kept on asking me over and over.

Q. When they asked you those questions did they say, "Did you do it?" or "Did you kill the Bennetts", or what type of questions did they ask you?

A. They told me I killed those Bennetts and I said "No, sir; I didn't."

Q. How many times did they tell you that Monday night you killed the Bennetts?

A. Might have been 3 or 4 thousand. I can't tell.

Q. It was plenty of times?

A. Yes, sir.

Q. How many different people told you over and over that night that you killed the Bennetts?

A. Every one came around told me I killed the Bennetts.

Q. What other questions were asked you?

A. Well that is all: "I killed the Bennetts."

[fol. 142] Q. How long did that ordeal last?

A. About 10 or 11 hours.

Q. When did it start?

A. 7 or 8 o'clock.

Q. What kind of weather was it that night—hot or cold?

A. It was about like you might have had a fire in that little room.

Q. That was in the middle of July?

A. Yes, sir.

Q. Everybody was sitting around with their coats on?

A. No, sir; Mr. Richardson had on his coat when he was there and that other fat fellow who would be with him, but the Chief when he was there, he would have his coat off.

Q. Did these gentlemen take any pistols, black-jacks or weapons of any kind, out when they were talking to you that Monday night?

A. No, sir; I didn't see that.

Q. All right, when was the next time you went into that little room?

A. Tuesday about 1:30 in the afternoon.

Q. Who was there with you on that Tuesday afternoon?

A. Well it was Mr. Price and all of them was there then.

Q. All of them—I won't bother you to name them all for it will take too long. What happened then?

A. They still said I did and I said I didn't.

Q. Did they ask you any other questions besides that?

A. No, sir.

Q. How long did that last?

A. Until 4:30 or 5 o'clock.

Q. Did you tell them you did it?

A. No, sir; I didn't.

Q. Did they ask you where you were at the time this thing happened?

A. Yes, sir.

Q. Did you tell them where you were?

A. Yes, sir; I told them.

Q. On that occasion did they bring anybody else in there to examine them?

A. Brought J. T. in there that Tuesday afternoon.

Q. Did J. T. tell them the same thing you had told them?

A. He did.

Q. And then J. T. left?

A. Yes, sir.

Q. Then what happened after J. T. left?

A. They still told me I did and I told them I didn't.

Q. That went on until 4:30 or 5 o'clock?

A. Yes, sir.

Q. Then you were taken back to the cell?

A. Yes, sir.

[fol. 143] Q. Then on Tuesday night were the same ones there or do you know?

A. Tuesday night I don't think Mr. Price was there.

Q. About how many were there?

A. All them that had been there except Mr. Price, if he wasn't there, was there.

Q. Were they all up in the room at the same time or would some go in and some come out?

A. Well some of them all would be there one or two minutes and go out and they would start coming back and some of them stand in the door.

Q. Was any fan or air condition equipment in there at the time you were in there?

A. I ain't seen it.

Q. Was it about the same temperature as on the other night?

A. Yes, sir; I was sweating about the same.

Q. Were the others sweating or not?

A. I didn't see none of them sweating for every time they got real hot they would go off and get cool.

Q. Did you get a chance to cool off?

A. No, sir.

Q. Where were you sitting?

A. That Tuesday night I was sitting with my face turned to the wall and they were behind me.

Q. Sitting with your face to the wall, facing in the corner?

A. Yes, sir.

Q. You weren't sitting over by the window?

A. No, sir.

Q. Go ahead and in your own way tell us what happened that Tuesday night.

A. Well, they had me sitting there with my back to the room.

Q. Just want to remind you not to talk so fast.

The Solicitor: I would suggest that the witness talk some and not lead him all the time.

The Court: Go ahead.

The Witness: They had me sitting with my face to the wall and they kept telling me I did and I told them I didn't. Told them I didn't know where they lived or didn't know about the roads—told them I didn't know where ever they is. I didn't know as I ever been on those roads and I still didn't know. A little later on they told me something about Wylie say I did it and said Wylie was going to put [fol. 144] it all on me and I told them Wylie couldn't say I did it and so it looked like then, I imagine they wasn't going to make me say that and they asked me, " Didn't you lend Wylie your pistol?" and I said, "Yes, I did let Wylie hold my pistol, but he didn't keep my pistol."

Q. Then what else?

A. Then they made out a statement and I signed the statement and they went and got Wylie and brought him out there, but before they even went to get Wylie, Mr. Will, he hit me while I had my back turned.

Q. How were you sitting?

A. I was still sitting kind of like this (indicating). Chief Sprawls sat this way typing and I was sitting just like that was the corner and Mr. Will walked in there and hit me on the side of my face with his fist—wasn't his fist, it was with his hand like this (indicating).

Q. Open hand?

A. Yes, sir.

Q. Did it or not knock you unconscious?

A. No, sir; but still it hurt.

Q. Will you tell us about how hard it was?

A. I can't tell you how hard it was unless I was hitting on somebody.

Q. Well what happened after that?

A. Well Mr. Will, he went out then. He didn't stay in there much more.

Q. Answer that again?

A. After Mr. Will hit me he never did stay in there much more. He might come in and look and turn around and go back.

Q. After Mr. Will went out what happened?

A. Mr. Sprawls stayed in there and he was writing. I don't remember what I said but anyhow he said I was telling a lie and he turned around and he hit me.

Q. How hard did he hit you?

A. He knocked me harder than Mr. Will for that turned my head around.

Q. Did that blow make any scars or any permanent marks on you?

A. Didn't make any marks.

Q. What happened after that?

A. Mr. Will went on and got Wylie.

Q. Was Wylie brought to the jail?

A. Yes, sir; he was.

Q. Tell me what happened when you and Wylie were together?

[fol. 145] A. They read the statement and Wylie say he didn't and I told him he did. We were sitting facing one another.

Q. Did you tell Wylie that statement was true or false or what did you say about that statement?

A. I told him it was true.

Q. Then how long did Wylie stay there?

A. I have no idea he stayed there half an hour. I don't believe he did.

Q. When that statement was read to Wylie and you told him it was true, can you tell me now what was in that statement?

A. No, sir; I can't. Not all of it.

Q. Will you state whether or not you accused Wylie of having the pistol at the time the Bennetts were killed?

A. Well I didn't exactly accuse him but I said I let him have the pistol.

Q. Then Wylie was taken out?

A. Yes, sir.

Q. Then what happened to you?

A. They carried me back to the jail about 25 or 30 minutes later.

Q. That was about what time?

A. That was about two o'clock, I imagine.

Q. In the morning, day time or night time?

A. No, sir; night time.

Q. Somebody said that was the 16th going on the 17th?

A. Yes, sir.

Q. Now on Wednesday what was your first transaction or conversation with the officers of the law and where was it.

A. We were out in the same place where we would usually be all the time.

Q. Who was present on that day?

A. Well all of them were present that day except Mr. Baker.

Q. Didn't see Mr. Baker?

A. No, sir.

Q. State whether or not that room was almost full or empty?

A. That room was stacked full that day than it was empty.

Q. Did they come in and go out or all stay in there?

A. For about half an hour or an hour all of them stayed in there.

Q. About what time of day was this?

A. About 1:30 or 2 o'clock. They usually come for me about the same time.

Q. Tell me what happened in that room the afternoon of Wednesday?

A. Well me and Mr. Price and Mr. Sprawls sat in there and told me I did and I told them I didn't know anything [fol. 146] about it and I was facing Mr. Price there and Mr. Richardson walked in and sat down behind me and said, "Nigger you know you killed them people." I look around and said, "No, sir; I ain't killed nobody," and he said again, "Nigger you know you killed him" and I said "No, Chief—said lawyer—I called him lawyer, "you know I didn't" and he said "Don't call me lawyer, I ain't no lawyer and I told them over and over I didn't do it and they said, "You did" and nothing I could do for if I told them the truth it was a lie, so they said, but it was the truth.

Q. You still denied it?

A. Yes, sir.

Q. How long did that go on?

A. That went on that way for about an hour.

Q. Then what happened?

A. That other big man that was with Mr. Richardson, he sat down right behind Mr. Richardson.

Q. Have you seen him in the Court room?

A. Yes, sir.

Q. Is that Mr. Dollard?

A. Yes, sir; that great big old man.

Q. He came in and sat down there?

A. Sort of behind Mr. Richardson.

Q. What did he do?

A. He told me, "Well if he won't tell the truth, he will tonight when I get this rubber hose and rope, we will get something from him he ain't knowed he had" and when he said that I looked at him—I didn't know what he meant and I said "Sir?" and he said, "I am talking about you" and I turned around and got off the chair and got on my knees and they made me get up.

Q. Who made you get up off your knees?

A. I don't know but it was some of them behind me.

Q. After he said that, did you continue to deny it or profess to know something about it?

A. No, sir; I still denied it.

Q. Did Mr. Dollard hit you?

A. No, sir; he didn't but two men had hit me with their fist—Mr. Will and Mr. Sprawls.

Q. How many times did each of them hit you?

A. One time a piece.

Q. After this remark was made by Mr. Dollard, what is the next step?

A. They started back to questioning me—they didn't hit me. Asked me, "Did I do it" and I said, "No, sir; I didn't", for I didn't know anything about it.

[fol. 147] Q. How long did that go on?

A. Until about 5:30.

Q. 5:30 in the afternoon?

A. Yes, sir.

Q. And then what happened?

A. They turned me back to the jail block.

Q. Did anybody else come out to see you that afternoon?

A. No, sir.

Q. Well when was the next time they brought you out again?

A. That Wednesday night about 7:30.

Q. Who was there then?

A. Well I didn't see anybody right then but Mr. Price and Mr. Baker and that big man over there.

Q. Just the three of them?

A. Well Mr. Will he didn't come in there. He stayed on the outside around the door.

Q. Three of them in the room, Mr. Baker, Mr. Fallaw and the other big man?

A. Yes, sir; and Mr. Baker stood up there and said, "You know you did it" I said "No, sir". He said "Didn't you kill those people" and I said "No, I didn't know nothing about it."

Q. Did he use any threats or profanity or any form of intimidation?

A. Mr. Baker he didn't.

Q. Did anybody else?

A. Well not right then hadn't been no threats made until that afternoon.

Q. Then what sort of questions was Mr. Fallaw asking you at that time?

A. He asked me "Why don't you come on and tell the truth?" "Shoot square with me" I said "I have been shooting square with you all the time", and he said, "Oh,

you ain't told the truth". I said "Yes, sir" and he lowed again—spoke again and said "You know you are not speaking the truth for the F. B. I. knows when a bullet comes from a pistol" and I said "If they told you that bullet came from that pistol it ain't true."

Q. When you were coming back from Nashville did you know whether or not the F. B. I. is frequently called upon to tell whether a bullet comes out of a particular pistol or not.

A. Well I didn't know it and still don't know it but if they do know it and they got those bullets they will tell you it didn't come out of that pistol there.

Q. Then Mr. Price told you what about the F. B. I. [fol. 148] A. Said they would know whensoever a bullet was fired from a pistol and they said that there is the pistol that killed those people and I said, "No, they are wrong."

Q. Have you heard any testimony here today or in this trial that that bullet came out of that pistol?

A. No, sir; but that is what they said. If it is right it is right. I know what they will do, or I have an idea.

Q. What did Mr. Fallaw tell you after he told you the F. B. I. said the bullets came out of that gun?

A. I said if the F. B. I. told you that, they are wrong. He changed then and said, "I am going to take out a warrant for your mother" and I told him, "Well", I said "I don't see why you will take out a warrant for her for she is just like me. She don't know nothing about it and I don't know nothing about it."

Q. What did he say to that?

A. He said, "Well we will have her arrested whether she knows anything about it or not."

Q. And Mr. Fallaw is the Sheriff of Aiken County, is he not?

A. Well that is what they say. I don't know whether he is or not.

Q. Did you or not know at that time that he was an official of Aiken County?

A. No, sir; I ain't never seen him before until they got me in Nashville and they were standing up there.

Q. Did you know that any of them were policemen?

A. No, sir; I didn't until they put the handcuffs on me and then I didn't know whether they were police or not.

Q. After this talk with Mr. Fallaw about putting your

mother in jail—arresting her and getting out a warrant for her and then you told him the answer you gave while ago, then what happened?

A. I told him, "Well ain't no use doing that for she is just like me. I don't know nothing about it and she don't know nothing about it" and he asked me why she took the pistol to Johnston and I told him because Charlie wanted to buy it and I didn't want to sell it for it was my aunt's pistol and if she ever give me mine I could give it back to her; but I would let him keep it until I came back from Nash-[fol. 149] ville.

Q. So you refused to sell it to him?

A. Yes, sir; but I let him have it.

Q. After he told you that what did you say?

A. I told him well if you swear it out she is just like me. I don't know nothing about it and she don't know nothing about it.

Q. They have introduced a paper in evidence which purports to show you confessed to the murder of Mr. and Mrs. Bennett. I want to know the first time that you stopped denying this crime and when you told them you would sign the confession or whatever you told them. I want to know when that was?

A. When that confession was made I didn't know nothing to tell them and Mr. Price Fallaw had mentioned—every thing—he had mentioned a lot of meat and stuff and going in the ice box. He had done mentioned all that and they had me scared and I just said what I heard them say. I just repeated what they said and I was scared.

Q. What had you scared?

A. They had told me what they were going to do with the rubber hose that night and I couldn't say what it was or wasn't.

Q. And so Wednesday night you told them that you would sign a confession or what did you tell them?

A. Well whensoever he repeated the words and had repeated everything, on that occasion, now and he would ask them—he called up Mr. Sprawls first and then he named them things again and asked me wasn't it right and I told him "Yes, sir". He repeated those words twice.

Q. Well were those words true or not?

A. No, sir.

Q. Why did you say, "Yes, sir."

A. Because they had me scared, that is why.

Q. All right. L. D. after you put your name on this document, then you sign it?

A. Yes, sir; they had me scared. I would have said most anything they said then.

Q. Is that your signature?

A. Yes, sir; that's it.

Q. All right. After you signed that confession or the [fol. 150] alleged purported confession, did you at any other time thereafter make any other confession?

A. No, sir.

Q. Did you at any time after that tell a living soul that you are the man that killed Mr. and Mrs. Bennett?

A. No, sir; I didn't.

Q. And I ask you today, L. D. Harris, did you kill Mr. and Mrs. Bennett?

A. No, sir; I never have seen them. Didn't even know what road they stayed on or where they lived or nothing.

Q. All right. L. D., I want to go back and take up one or two questions. When you were in the jail did it come to your knowledge that any other investigation or that there were any other suspects in the Bennett case—did you know of any other person having been suspected in the Bennett case?

A. No, sir; I heard about it.

Q. Did you hear anything about the little children?

A. Yes, sir; I did.

Q. And what did you hear?

A. I heard the little kids had identified them—the people they were holding.

The Solicitor: Your Honor, that is all hearsay now.

Mr. Salley: Your Honor, I think I can link that up.

The Court: Mr. Solicitor, the only thing that worries me about it. Of course, under the rules of evidence it isn't competent—but we have been in that several times with other witnesses and I don't think I can cut the defendant off. These officers particularly were asked questions along the same line. Of course, the theory he is driving at is if that were the rumors around the jail, it would have some effect on him—it isn't competent evidence, but I am going to let it in.

Mr. Salley: Your Honor, the first reason—

The Court: I am going to allow you to go into it—go ahead.

By Mr. Salley:

Q. L. D. you said that you had heard that the children—

The Solicitor: Let him state what it was.

The Court: Let him state what he knew or what he was [fol. 151] told around the jail in reference to the children.

By Mr. Salley:

Q. What were you told about the children?

A. Well it was told to me—said they had been picking up fellows to investigate and they had been bringing the little kids to identify them.

Q. That is enough—don't say anything more about it. Then what if anything, did you say to Mr. Fallaw or any of the other officers in regard to those children?

A. I asked Mr. Price to go get that kid and let him identify me.

Q. Did he ever do it?

A. No, sir; he said he had all the proof he wanted.

Q. I want you to look Mr. Price Fallaw straight in the face and answer that question again, that I just asked you?

A. I asked him to bring the kids and let them identify me and he said, "No, he had all the witnesses that he wanted." Said he had all the identity he wanted. He meant the pistol, that is what he meant, for he said the pistol.

Q. Did those children or any of them ever come to look at you and identify you?

A. No, sir; if they did I was in the cell asleep.

Q. Have you heard where this store was during the trial of this case?

A. No, sir; I haven't no more than I heard some of them say in the jail house.

Q. Have the officers of the law or anybody investigating this case, have they ever taken you to look at any store or any house or any dwelling of any kind whatsoever?

A. No, sir; they haven't.

Q. Have they ever asked you to re-enact this crime to which you have signed a confession?

A. What do you mean "re-enact"?

Q. It means to do it over again—go through it again?

A. No, sir.

Q. Have they ever asked you to show them on the ground or in a house or anywhere just how you committed this crime?

A. Well Mr. Price, he drawed up something or other on a piece of paper and asked me was it there and I said, "I [fol. 152] didn't know" and he said, "Well it was there," and I said, "Yes, sir; I reckon so."

Q. When was that?

A. That was that Wednesday night.

Q. L. D. we are going to jump back to the point of time to the day on which this crime occurred—on the Sunday you said you were with J. T. Medlock?

A. Yes, sir.

Q. I ask you if either of you lent the other any money?

A. Yes, sir; J. T. lent me some money.

Q. Did you pay him back?

A. Yes, sir; when I went and borrowed it from my mother, I borrowed a dollar from my mother to pay J. T. when I borrowed a dollar from J. T. to give it to Wylie.

Q. Now you heard Wylie Bennett on the stand?

A. Yes, sir.

Q. Did you hear Wylie testify that you had told *you had told* him you wanted these bullets because you had just fired your last three, I believe it was?

A. He said "his last three" but that is the first time I seen him when I asked him about it. That was on Wednesday night.

Q. Well did you tell him you had just fired your last three?

A. On Wednesday night?

Q. Yes.

A. I told him I had done shot my last three.

Q. What Wednesday night was that?

A. That is the first Wednesday night I ever saw Wylie.

Q. Was that before or after the killing of Mr. and Mrs. Bennett by someone?

A. That was before that killing was done.

The Court: Gentlemen, I think we might save time by stopping here. We will take a recess gentlemen (here gives usual remarks to the Jury) and be back at 3 o'clock.

(Court convened for noon recess.)

3 P. M. Court convened.

Mr. Salley: You may cross examine him.

Cross-examination.

By the Solicitor:

Q. Who is your mother?

A. Maybell Harris.

Q. Where is she?

A. I don't know.

Q. When is the last time you heard from her?

A. Ain't heard from her since I left Nashville.

[fol. 153] Q. You left her where when you went to Nashville?

A. I left her in Graniteville.

Q. You were working for Mr. Yonce?

A. Yes, sir.

Q. Why did you run off from Mr. Yonce?

A. I didn't run off. I found out I could make more money.

Q. Why did you owe Mr. Yonce any money?

A. Because he let me have it to pay the debt—money I borrowed.

Q. What did you borrow money for?

A. For Christmas.

Q. How much?

A. \$170.00.

Q. What Christmas?

A. Christmas a year ago.

Q. Must have had a pretty big Christmas?

A. Yes, sir.

Q. You left here and went to Tennessee?

A. Yes, sir.

Q. Didn't leave here to go to Tennessee until after these people were shot?

A. Well they were shot.

Q. How many days after they were shot before you left?

A. I left here on Thursday.

Q. Quick as you could raise the fare?

A. No, sir.

Q. You didn't tell Mr. Yonce anything about it?

A. Yes, sir.

Q. Before you left here, you left that pistol here?

A. Yes, sir.

Q. What kind of pistol?

A. 38 short.

Q. Is this it?

A. Yes, sir.

Q. Is this the one you were practicing with at the saw mill?

A. Yes, sir.

Q. Where did you get that pistol?

A. That is my aunt's. She took mine and I took hers.

Q. You stole hers and she stole yours?

A. That's the way it was.

Q. You stole hers in the night time when she wasn't looking?

A. She didn't be there at night.

Q. You got it in the day time while she wasn't looking?

A. She wasn't in the room.

Q. You knew she reported that to Mr. Herrington?

A. No, sir.

Q. What kind did you have?

A. 32 short.

Q. You didn't have an automatic?

A. No, sir.

[fol. 154] Q. What did you get some bullets for?

A. I didn't get no automatic bullets.

Q. That boy said he did?

A. He gave me one automatic bullet and one to fit that pistol.

Q. When was that?

A. That was back in March or February.

Q. Not long before the killing?

A. It was over a month.

Q. Not long before the killing?

A. Yes, sir; wasn't long.

Q. What day was it you got your friend Wylie Bennett to try to hunt you some bullets?

A. That was on the 24th.

Q. How you know it was on the 24th?

A. I know it was Wednesday night.

Q. You are pretty good on dates?

A. When I want to know.

Q. How many bullets did you have?

A: Five in the pistol and 3 more.

Q. You had it full around?

A. Yes, sir.

Q. That was enough to kill these people?

A. If I had had any at the time it would have been, but I didn't have any at the time.

Q. Now you had a 32?

A. Yes, sir.

Q. Now you let the old lady Brown have the 32 or she got that while you wasn't looking?

A. Yes, sir; she took it while I wasn't looking.

Q. What is the next pistol you had your hands on?

A. That is the only kind.

Q. On Sunday you got a 22?

A. That Sunday I had done shot all the bullets out of mine and I had that in my pocket and I didn't have on no coat and I met Loniè and I asked her to take mine and give me hers.

Q. Hers was loaded?

A. It had 3 or 4 bullets.

Q. And yours was empty?

A. No, sir; it had one in it.

Q. That was on Sunday afternoon about 2 or 3 o'clock?

A. Yes, sir.

Q. You met that woman how far from her house?

A. Good ways.

Q. Is that the woman you call Jugger?

A. Yes, sir.

Q. You told her you had a pistol which showed big in your pocket and you wanted her to take that one home for you?

A. Yes, sir.

[fol. 155] Q. You spent the night in Johnston?

A. With Aunty.

Q. Mr. Yonce paid you off on Saturday?

A. He paid me half.

Q. How much was it?

A. I don't know.

Q. Well you are a financier—you have been figuring on this money all day?

A. No, sir.

Q. When he paid you off, where did you go? Did you have your pistol at the mill—where did you go Saturday?

A. I got paid on Saturday.

Q. When you went to Johnston that night you carried the pistol with you?

A. No, sir.

Q. When you came back—when you got home on Sunday, what time did you get there?

A. About 9:30.

Q. Went directly home?

A. Yes, sir.

Q. Ma was cooking breakfast for you?

A. No, sir; but as soon as she cooked it, I got it.

Q. Then you went roaming around?

A. No, sir; I washed my hair and bathed.

Q. You were over at Johnston—didn't fix it over there?

A. I didn't have no grease to fix it with.

Q. Where did you go the first place you went on Sunday morning?

A. To Will Brown's.

Q. How long did you stay there?

A. I stayed there until he cooked and eat breakfast.

Q. Did you eat breakfast at Will's?

A. No, sir.

Q. Where did you go then?

A. I come back home.

Q. Did you carry your pistol over to Will Brown's?

A. No, sir.

Q. Left it home?

A. Yes, sir.

Q. Came back home?

A. Yes, sir.

Q. Took your pistol with you then?

A. No, sir; I didn't.

Q. Left it home again?

A. Yes, sir.

Q. Where did you go then?

A. To Virginia's first.

Q. Didn't carry your pistol there?

A. No, sir.

Q. You went from Virginia's back to your home?

A. No, sir.

Q. Where did you go?

A. To J. T.'s.

[fol. 156] Q. Then from J. T. back to your home?

A. Yes, sir.

Q. And then you got your pistol?

A. Yes, sir.

Q. What did you need that pistol for?

A. I didn't need it for anything.

Q. You had been to Johnston the night before, came back and made several trips and you got that pistol about 10 o'clock?

A. No, sir; it was after ten.

Q. Nearly eleven?

A. No, sir; it was later than that for it was about twelve or a quarter after when I got to Virginia's and I didn't get the pistol until I went to J. T.

Q. You went to Virginia's before you got your pistol?

A. Yes, sir.

Q. And came back to your home for the purpose of doing what?

A. I pulled off my white shirt and put on a blue shirt.

Q. For what?

A. I just changed shirts.

Q. You had already dressed up—washed your head and changed clothes?

A. Yes, sir.

Q. Why did you want to change your shirt again?

A. Anytime I want to I change.

Q. Why did you have to change your shirt?

A. I didn't have to change.

Q. When you came back to your home the second time you changed our shirt?

A. That was in the evening. The same shirt I had on, that white shirt, I had had it on the night before.

Q. Why you had already changed shirts that morning?

A. No, sir.

Q. Well you came home and changed your shirt?

A. I changed shirt that evening.

Q. All right. Now you met your friend Jugger out in the road?

A. Yes, sir.

Q. And you had your 38 in your pocket when you saw her?

A. Yes, sir.

Q. And only one ball in it?

A. Yes, sir.

Q. You were out there, just you and Jugger by yourself?

A. No, sir.

Q. Who else was with you thière?

A. J. T.

Q. Your cousin or friend?

A. No, sir; just been knowing him.

[fol. 157] Q. He is the fellow you ran around with that Sunday morning?

A. It wasn't that Sunday morning.

Q. Wasn't that Sunday morning—it was the afternoon—

Mr. Salley: Your Honor, I hate to object but I would like to have the witness finish his answer.

The Court: I didn't notice that he hadn't finished it that time.

The Solicitor: I will let him talk. He is pretty good talker.

Q. All right, I want to know why it was that after you had been to Johnston on Saturday night, when you came back home and made two trips out to your house and over to this other fellow's and didn't need a pistol during that time, why was it you needed the pistol the second time?

A. Because I didn't hardly go out of the house at all.

Q. Why did you put your pistol in your pocket when you went there the second time?

A. I just put it in there. Couldn't hardly kill nobody with one ball—well you could.

Q. That lady was killed with one ball?

A. Yes, sir; I reckon so. I don't know.

Q. 38 ball enough to kill one man?

A. Yes, sir; if you hit him.

Q. You got from Jugger a pistol that had balls in it?

A. Had four balls in it.

Q. Why did you want Jugger to take that pistol?

A. If mine hadn't been so large I would have carried it.

Q. Did it grow any?

A. I had to put my hand over it to keep the print of it from showing.

Q. Well you knew that?

A. Well I had been use to wearing a coat.

Q. Well it was just as big when you put it in your pocket at your house as it was when you met your friend Jugger?

A. Yes, sir.

Q. But you decided when you met her you wanted her to take it to her house?

A. Well she could take it home.

Q. Why did you leave it over night?

A. Because it was sort of late.

Q. She said you said you would be there for it next morning?

A. Well I told you I said it would be late.

[fol. 158] Q. Where did you want Bennett to carry you?

A. To Johnston.

Q. What did you want to go to Johnston for?

A. That is the place I be around all the time.

Q. You just left there Saturday night and wanted him to take you back that night?

A. That's right. Sometimes I be at Johnston every night and when I wasn't working I would be at Johnston.

Q. On Sunday night, where did you spend the night?

A. Mrs. Carrie Jones, where I was living.

Q. Your mother stayed there too?

A. Yes, sir.

Q. In other words that is your home?

A. Yes, sir; in other words where I live.

Q. On Monday where did you go?

A. To the saw mill.

Q. Carry your pistol with you?

A. No, sir.

Q. Didn't have to practice any more?

A. I had never carried it anywhere only that Sunday when I gave it to Jugger.

Q. On Sunday you got scared to carry that pistol around?

A. No, sir.

Q. Never afraid before?

A. I wasn't afraid before.

Q. Carried it out to this *jook* joint on this trip?

A. Yes, sir; and I had on my coat.

Q. You shot it over there at the trash pile?

A. No, sir.

Q. Your friend did?

A. Yes, sir.

Q. On Tuesday you didn't carry it to the saw mill?

A. No, sir.

Q. You went back to Johnston again on Wednesday?

A. Yes, sir.

Q. For what?

A. To see a girl.

Q. Only see one?

A. I saw a heap of them.

Q. That is the day you told them good bye?

A. Yes, sir.

Q. Tell everybody good bye?

A. No, sir; I didn't see all of them.

Q. But you didn't tell Mr. Yoncee good bye?

A. No, sir; but he know I was gone or sick or something.

Q. I see—well you went on over to Tennessee and you left your pistol home?

A. Yes, sir.

Q. How did Charlie Williams get any interest in that pistol?

[fol. 159] A. Well he had been trying to buy it from me and several more and I told him no. About month before then I told him I was going to Tennessee and work and told him I wasn't going to take it with me and whenever I go he could keep it until I came back.

Q. You had done all you wanted to do with that pistol?

A. It wasn't that.

Q. You wanted to get rid of it?

A. No, sir.

Q. Got rid of it with Jugger on Sunday afternoon and and then when you went to Tennessee you left it with Charley?

A. Well I didn't need one.

Q. Why did you carry it around with you?

A. Only time I needed it when I walked around late at Sunday night.

Q. Or on Sunday afternoon?

A. Well, no, sir.

Q. Is that the only Sunday afternoon you ever had it when you met Jugger?

A. I wouldn't say I would or wouldn't. If I had a coat on I more than likely carried it.

Q. You decided it wouldn't do to leave that pistol home?

A. No, sir; I didn't decide that.

Q. And you got rid it?

A. No, sir.

Q. After they brought you back to Aiken these officers talked to you?

A. Yes, sir.

- Q. And you denied having anything to do with this killing?
- A. Well I still deny it for I didn't have anything to do with it.
- Q. Just let's don't argue—you told them on Monday you didn't know anything about it?
- A. No, sir; I didn't.
- Q. Tell them the same thing Tuesday afternoon?
- A. Yes, sir; told the same thing Tuesday.
- Q. And Tuesday afternoon, I believe it was, you saw this large officer threaten you with the hose?
- A. No, sir; that was Wednesday.
- Q. He didn't threaten to beat you Tuesday afternoon?
- A. They hit me Tuesday twice.
- Q. Who?
- A. Mr. Thompson and Mr. Sprawls.
- Q. Don't you know those gentlemen didn't hit you?
- A. Yes, sir; I do know it. They hit me right here. [fol. 160] should know it.
- Q. That didn't scare you?
- A. Yes, sir.
- Q. You are not easily scared?
- A. Well I ain't that hard to be scared. I am easy as anybody else.
- Q. Nobody hit you Tuesday?
- A. Yes, sir; I told you Mr. Sprawls and Mr. Thompson hit me.
- Q. You didn't tell them anything then?
- A. No, sir.
- Q. After they hit you they walked out and left you alone?
- A. No, sir; Mr. Thompson did but Mr. Sprawls didn't. He kept on questioning me.
- Q. Well he is just a quiet man—he doesn't talk loud?
- A. Well maybe he don't talk loud around you all.
- Q. What time did they leave on Tuesday?
- A. About 5:30.
- Q. You hadn't told them anything?
- A. No, sir.
- Q. You felt alright?
- A. I felt scared.
- Q. You ain't scared of nothing?
- A. I reckon you know. All I can do is tell you.
- Q. You told them you didn't know anything?
- A. That's right.

Q. On Tuesday night you talked to Mr. Thompson by himself?

A. Not exactly by himself.

Q. Well Mr. Baker was by there most of the time?

A. Part of the time.

Q. And Mr. Thompson was talking along with you and you told him if you could talk to him by yourself you would tell him the truth?

A. I still told him I didn't know nothing about it.

Q. You told him you wanted to talk to him by yourself?

A. Yes, sir; but I told him I didn't know nothing about it.

Q. Then he talked to you by himself?

A. Yes, sir.

Q. And then it was you made a statement?

A. Made a statement—which way you mean.

Q. Told him what you knew about it?

A. No, sir; I didn't.

Q. And you signed a paper there which was written up that night after you told Mr. Thompson about it?

A. I don't know which statement you are speaking about.

[fol. 161] Q. I am talking about the first one you signed?

A. Yes, sir; I signed that statement but still it wasn't true.

Q. You told him that by himself?

A. Well Mr. Baker was in there and the rest of them were coming backwards and forwards.

Q. Well Mr. Thompson was sitting there in the office—just the two of you until you told him?

A. Yes, sir; until Mr. Sprawls came.

Q. You told Mr. Thompson all this stuff while you and he were together?

A. Well they had mentioned it to me.

Q. I didn't ask you to lecture me about it—you told him all about it?

A. Yes, sir.

Q. All right, we'll stop there. After you told Mr. Thompson then it was that he called in some other officers?

A. Yes, sir.

Q. And then you told it again?

A. I can't remember whether I told it again or they wrote it down the first time.

Q. Oh, yes, sir, you did, when Mr. Sprawls came in—he had the typewriter?

A. The typewriter was already there.

Q. All right, he used the typewriter?

A. Yes, sir.

Q. And he wrote it down and you signed it?

A. Well I signed one paper. I don't know as I signed the other.

Q. Look at that?

A. I can't hardly tell.

Q. Look at your signature?

A. That favors my handwriting.

Q. I think it does. And you said in this statement that you had lent Wylie Bennett your pistol so he could have it to fit the balls in, to get you some balls, didn't you? Did you say that? Did you tell him that—that it was the 26th or 24th of April?

A. It was on the 24th.

Q. What day of the week was that?

A. On Wednesday.

Q. And you told Mr. Thompson and it was written down by Mr. Sprawls that you loaned Wylie Bennett your pistol so he could get some balls to fit it for you—did you say that?

A. I don't know as I—

Q. Did you say that?

Mr. Lybrand: That is the very thing we have objected to—

The Court: Yes, sir, but the witness isn't getting to the question that was being asked—he asked him a direct question [fol. 162] which he could have answered yes or no. Did he say that? And yet the witness goes off on something else.

The Witness: I told him, yes, sir.

Mr. Lybrand: I would like for him to give him a chance to answer yes or no and then make his explanation.

The Court: I think on cross examination he could conduct it largely as he sees fit.

Mr. Lybrand: We submit, Your Honor—

The Court: I have ruled.

By the Solicitor:

Q. All right, then you say you let Wylie Bennett have your pistol on the 24th to get you some balls?

A. Yes, sir.

Q. In that connection why did you want those balls?

A. Well I didn't have but one.

Q. Shot them all up but one?

A. Yes, sir.

Q. And then you told the officers you didn't see Wylie Bennett any more until Sunday afternoon?

A. I didn't.

Q. When you saw Wylie Bennett he told you he had some trouble with your pistol—he had got into some trouble about your pistol during the day?

A. Yes, sir; I said it.

Q. And you said you asked Wylie what's the trouble and he said he shot two people—you told the officers that?

A. Yes, sir.

Q. And they put it on a piece of paper and you swore to it?

A. Yes, sir.

Q. Is that true?

A. That is true.

Q. You gave your pistol to Wylie Bennett?

The Court: He didn't understand you.

By the Solicitor:

Q. Is it true you gave your pistol to Wylie Bennett?

A. No, sir; I just gave him the money to get the balls and showed him what sort of pistol it was.

Q. And he carried it off with him?

A. No, sir.

[fol. 163] Q. But you told the officers he did?

A. Yes, sir.

Q. That was untrue?

A. Yes, sir.

Q. Then you told the officers that the time you was with him at night that you asked him about the balls and he didn't have them?

A. I asked him about the balls Sunday afternoon.

Q. And then you told the officers that Wylie Bennett told you he had some trouble with the gun?

A. Yes, sir.

Q. Is that true?

A. No, sir.

Q. So all that was false?

A. Yes, sir.

Q. Why did you tell that false statement?

A. They had me scared.

Q. Why did you want to put that man Wylie Bennett in trouble, knowing it was false?

- A. I wasn't trying to put him in trouble.
- Q. Didn't you know that would put him in trouble, swearing that Wylie Bennett told you ha had shot these people?
- A. I wasn't going to swear that.
- Q. What did you mean to swear?
- A. The truth and that is I didn't know.
- Q. You swore to a falsehood, knowing it was a falsehood?
- A. Yes, sir.
- Q. And nobody didn't make you do it?
- A. They had me scared.
- Q. All right, now on the same night they brought Wylie in there?
- A. Yes, sir.
- Q. And after they brought Wylie in there you looked at him and shook your finger in his face and told the officers every word was true?
- A. I told him it was true but I didn't shake my fingers in his face.
- Q. You stood there and stood him down and told him three times it was true?
- A. Yes, sir; I told him that.
- Q. And then they let you alone?
- A. Yes, sir.
- Q. And then they wrote the thing up?
- A. Yes, sir.
- Q. And you swore to it?
- A. Yes, sir.
- Q. So the next afternoon—is that the time you say Mr. Thompson hit you?
- A. No, sir; hit me Tuesday.
- Q. Right when you signed that paper?
- [fol. 164] A. No, sir; before they wrote it out.
- Q. And he told you you weren't telling the truth?
- A. No, sir.
- Q. And that is when he slapped you on the shoulder?
- A. He didn't slap me on the shoulder.
- Q. Well he hit you and busted your head?
- A. No, sir.
- Q. He told you you weren't telling the truth?
- A. No, sir.
- Q. And you stood up there and repeated it and they wrote it down?
- A. I didn't repeat it but once.

Q. The next day you told them you didn't do it?

A. Yes, sir.

Q. And then that afternoon you told the Sheriff that you did it?

A. No, sir.

Q. You didn't tell the Sheriff so?

A. I ain't told them I killed them.

Q. You deny you told the officers you did it yourself?

A. I didn't tell them I did it.

Q. What did you tell them?

A. I told them I didn't know anything about it.

Q. Well let me refresh your memory. Now before the others came in while the Sheriff came in and Mr. Baker was standing on the inside?

A. All of them was back and forth.

Q. The Sheriff came in first?

A. I believe he did.

Q. And Mr. Baker was there—the jailor?

A. Yes, sir.

Q. And the Sheriff talked to you?

A. Yes, sir.

Q. And Mr. Long was there?

A. Yes, sir.

Q. And you finally told the Sheriff that you would tell the truth about it but you told him you wanted to talk to him by yourself?

A. No, sir; not then.

Q. When was that?

A. That was after that big man had talked about that rope.

Q. I am talking about the time—the rope was all over and they had already gone and the Sheriff sat down and talked to you by yourself?

A. Yes, sir; but the rope wasn't over for they said they would do it that night.

[fol. 165] Q. The Sheriff didn't have a rope?

A. No, sir.

Q. And he didn't say a thing about a rope?

A. The Sheriff didn't. He kept repeating heaps of things over.

Q. The Sheriff kept asking you questions?

A. Yes, sir.

Q. And you all sat there and smoked some cigarettes?

A. Yes, sir.

The weight you see fit to give to the testimony, as well as the credibility, that is the believability of the witnesses, as well as all issues of fact, gentlemen, are for your sole determination. In that regard, I would instruct you that you might accept a witness's testimony in part and reject it in part. On the other hand, you might accept a witness's testimony in its entirety, or either reject it in its entirety. You might believe one witness as against several on a given issue of fact; on the other hand you might believe the several as against the one, on an issue of fact. As I say, gentlemen, the weight you see fit to give to the testimony and the believability of the witnesses—all issues of fact are for your sole determination. Now, on the other hand, gentlemen, You would take the law as given to you by this Court. Not what you think the law should be or that it might be, or even what the attorneys say it is, but under your oath, you would take the law as given to you by this Court, apply the facts, as you find it and the testimony, to that law and write your verdict accordingly. In that regard, gentlemen, I would also instruct you that you are to let nothing that this Court has said or any ruling it might have made during the course of this trial be any intimation to you as to what my belief might be on the question of facts; because, I have no desire, gentlemen, to invade your prerogative, which is to decide the issues of fact, neither should you invade my province; which is to declare the law to you. As I told you, this defendant stands charged in this indictment with murder. Now murder is defined as the felonious killing of a human being with malice aforethought, either express or implied. Now, gentlemen, malice is a necessary ingredient of the crime of murder. Without malice there can be no murder. Therefore, it is necessary for you to understand, gentlemen, what is meant in law by the term "Malice". Malice has been defined, gentlemen, by one of the old cases of our Supreme Court in this State, as a term of art importing wickedness. Perhaps the simplest definition that I can give you, however, of the term malice, is that malice is the deliberate and intentional doing of a wrongful act, without any just cause or excuse. So that in order for there to be murder, gentlemen, there must be a felonious or unlawful killing of a human being; it must be done malice aforethought either express or implied. Now by that last phrase, "either express or implied", gentlemen, doesn't mean there are two kinds of malice. To the contrary, it means there

Q. And he treated you nice?

A. Well he forced a statement out of me I didn't know nothing about.

Q. Mr. Baker was sitting by the door?

A. No, sir; he was leaning over where they took the finger prints.

Q. Where was Mr. Long?

A. He was out there next to the door.

Q. And you finally told the Sheriff you wanted to tell it to him by yourself?

A. I never told him I wanted to tell I killed them.

Q. What did you tell him?

A. I told him I done told you all the truth and you all won't believe it and then he talked about swearing out a warrant for my mother.

Q. Looked like he would have to swear out a warrant for your mother?

A. He never said "looked like"—he said he would.

Q. What did you tell him?

A. I told him I didn't want him to do that for neither one.

Q. But like you said yesterday, that never had any effect on you?

A. Well it did.

Q. Well you deny your statement you made yesterday, for you know you told the Court it didn't have any effect on you?

A. I said that at the penitentiary.

Q. I am talking about what you said here the other day.

A. I ain't never said nothing about it here, only thing I told him she was just like me, she didn't know nothing about it.

Q. Then you told the Sheriff you would tell him by himself.

A. I told him I wanted to talk to him.

Q. And Mr. Baker got out?

A. He got to the door.

Q. And Mr. Long got out?

A. Yes, sir.

Q. Both went out?

A. Yes, sir.

Q. And then you talked?

A. Well he named some things.

[fol. 166] Q. Wait a minute. When they went out then

are two ways or methods by which malice may be shown or proven. Now, malice is said to be "express" when it is manifest or expressed by some outward sign, such as laying [fol. 175] in wait, former grudges and the like. Now the law says if one intentionally takes the life of another with a deadly weapon that malice is implied from the unlawful use of a deadly weapon in intentionally taking the life of another. That is when nothing else appears, but when the evidence comes in, gentlemen, that implication of malice vanishes, goes out of the case and the burden is upon the State to prove malice as well as all of the other necessary elements and ingredients of the crime of murder beyond a reasonable doubt.

Now, gentlemen, the State may prove the case either by direct evidence or by circumstances. Now direct evidence, gentlemen, is where a person comes into Court and testifies to what he has seen or heard with his sense of sight or hearing. In other words, Mr. Foreman and gentlemen of the Jury, a witness comes into Court and testifies that he stood out in front of the Court House and saw an automobile collision. He testified as to what he saw and heard in reference to that collision. That would be direct evidence.

Now the State may prove a case, gentlemen, by circumstantial evidence and a jury is warranted in convicting on circumstantial evidence, if the requirements which I am now going to give you gentlemen are met.

These requirements are, first, that all of the facts and circumstances relied upon by the State to support the inference of guilt must be proven from the evidence beyond a reasonable doubt. Secondly, such facts and circumstances must be consistent with each other, and point to the guilt of the accused and inconsistent with his innocence; and thirdly, they should be of a conclusive nature and tendency and point directly to the guilt of the accused and point so conclusively to his guilt as to exclude every other reasonable theory and hypothesis, except his guilt. Now, those, gentlemen, are the [fol. 176] rules that you would apply in passing upon circumstantial evidence.

Now, gentlemen, there has been introduced in the evidence here for your consideration an alleged confession, purportedly made by the defendant. That alleged confession, gentlemen, is repudiated by this defendant. In other words, today in Court he denies that confession, or alleged confession. That presents, gentlemen, an issue of fact for your

you began to tell Sheriff Fallaw exactly what they wrote down on that paper?

A. No, he mentioned it first. He made that whole statement and I just followed it. He asked me was it right and I told him "Yes, sir".

Q. In other words he had to go over all of this and tell you where all you went down that road coming away from there?

A. Yes, sir.

Q. He told you everything?

A. Yes, sir.

Q. And didn't tell anything that was true?

A. No, sir.

Q. And you told everything that was true?

A. When I—

Q. Don't you know you told the Sheriff exactly what they wrote down here?

A. No, sir.

Q. Don't you know you told Mr. Sprawls the same thing he wrote down here?

A. No, sir.

Q. You deny it all?

A. Yes, sir.

Q. And you talk about being scared of people—don't you know you are not afraid of anything?

A. Yes, sir; I am.

Q. He was there by himself and didn't hit you?

A. No, he wasn't by himself.

Q. When you made that statement—when Mr. Baker had gone out and Mr. Long had gone, you talked to him?

A. I talked to him, but they were right there.

Q. He told you what?

A. He told me—Mr. Price told me to tell him—

Q. Tell the truth?

A. And shoot square with him. Well I told him I had been shooting square with him. I didn't know anything about it.

Q. Did he hit you?

A. No, sir.

Q. Did he lay his hands on you?

A. No, sir.

Q. Point a pistol at you?

A. No, sir.

Q. Did he have a rubber hose?

determination, under all of the facts and circumstances in this case.

Now in passing upon that issue of fact, gentlemen, this is the rule that you would apply. The question is whether the alleged statement was made freely and voluntarily, and unless it was free and voluntary, you are to disregard it and pay no attention to it. It is for you, the jury, to say if the defendant made a confession and, if so, whether it was made under duress or in fear. If it was, you are to disregard it; otherwise, if it was made freely and voluntarily you would give it such weight as it has on your mind. In other words, gentlemen, it is an issue of fact for you to determine from all of the facts and surroundings connected with the alleged confession. It is for you to say, gentlemen, if the alleged confession was made freely and voluntarily; it is for you to say, gentlemen, as to whether any coercion, duress, fear or intimidation entered into the securing of that alleged confession. Should you conclude gentlemen, from your view of these facts and circumstances surrounding the obtaining of the alleged confession that it was not obtained freely and voluntarily, or should you conclude, gentlemen, that there was any intimidation and I will say "any intimidation", duress, coercion, exerted by the officers in obtaining the alleged confession, you are to disregard it gentlemen, and it goes out of the case. In that connection I will also instruct you gentlemen, that should you conclude from your view of the facts and circumstances surrounding this alleged confession — should you conclude, gentlemen, that it was not obtained [fol. 177] freely and voluntarily from this defendant, it would not only go out of the case, gentlemen, but it would be your duty and I so instruct you to find a verdict of "not guilty" for this defendant, because, gentlemen, should you conclude that that alleged confession was not freely and voluntarily obtained from this defendant, it, as I have instructed you would go out of the case which would, gentlemen, take from the State's case any testimony sufficient for my presenting the issue of his guilt to you. In other words, gentlemen, should that confession under your view of the facts and circumstances surrounding the obtaining of it go out of the case, there is not sufficient testimony with it out to render a verdict of guilty against this defendant.

Of course, gentlemen, should you conclude on the other hand the alleged confession was freely and voluntarily obtained it would remain in the case as part of the evidence of

A. No, sir.

Q. Did he say a word about a rope?

A. No, sir; he didn't.

[fol. 167] Q. Say a word about a hose?

A. No, sir.

Q. Didn't say a word about hurting you?

A. No, sir.

Q. Then you went on to talk to him?

A. I said whatsoever he said. I repeated behind him.

Q. He didn't make you say anything?

A. I didn't know what the rest of them would do.

Q. And when Mr. Sprawls came in you said it again in the presence of Mr. Sprawls and other officers?

A. Mr. Price said it and I told him, "yes, sir."

Q. And Mr. Richardson came in?

A. I don't know.

Q. Don't you know that Mr. Richardson came in after you had already talked to the Sheriff?

A. I don't remember.

Q. And a little behind Mr. Richardson, Mr. Thompson came in?

A. I remember when Mr. Thompson came in.

Q. And Mr. Richardson was sitting right there?

A. I wouldn't say.

Q. And then later Mr. Sprawls came in, is that right?

A. Seems like to me Mr. Sprawls came there before Mr. Thompson.

Q. And after Mr. Richardson came in and Mr. Thompson came in, you told it all over just like you told the Sheriff?

A. I didn't tell the Sheriff. I went over the thing just like he told me.

Q. And when Mr. Sprawls came in he wrote it off on the typewriter?

A. Yes, sir; Mr. Price would ask the things and I would tell him "Yes, sir; you are right."

Q. In other words they did all the talking—you didn't say a thing?

A. Yes, sir.

Q. You just reared back like a gentleman?

A. I didn't rear back. I leaned over a seat, yes, sir.

Q. When they finished writing it, Mr. Sprawls read it over to you?

A. Yes, sir.

Q. And you asked them to insert one word "head"?

the case to be considered along with all of the other facts and circumstances in the case in passing upon the guilt or innocence of this defendant.

This defendant, to the charge contained in this indictment has entered a plea of "not guilty". That, as I have already told you, places the burden upon the State to prove him guilty of the charge of murder contained in this indictment beyond a reasonable doubt.

Now, in addition, gentlemen, to his plea of "not guilty" by the testimony in this case the defense of alibi is presented. The defense of alibi, gentlemen, is a complete defense to a charge of the nature contained in this indictment for the simple reason that it is physically impossible, gentlemen, for a person to be in two separate places at the same time. Therefore, gentlemen, you will recall that I have told you that the burden is upon the State to prove the defendant guilty of the charge contained in this indictment beyond a reasonable doubt. Part of the element of that, gentlemen, is his presence and the consummation of the charge of [fol. 178] murder contained in this indictment and, of course, gentlemen, should you conclude that this defendant was not present he naturally could not be guilty of the charge contained in this indictment. Now the defense of alibi, gentlemen, no burden of proof attaches to the defendant on such a defense, because as I told you the burden is on the State to prove this defendant committed the charge contained in this indictment.

Have I overlooked anything for the State, Mr. Solicitor?

The Solicitor: I don't recall, Your Honor.

The Court: Anything for the defense, gentlemen?

(No response.)

The Court: Mr. Foreman and gentlemen, the statutory law of this State provides the punishment for murder. "Whoever is guilty of murder shall suffer the punishment of death; provided, however, that in each case where the prisoner is found guilty of murder the jury may find a special verdict recommending him or her to the mercy of the court, whereupon the punishment shall be reduced to imprisonment in the penitentiary with hard labor during the whole lifetime of the prisoner." The form of your verdict, gentlemen, would be one of three. The first possible form of your verdict would be, "We find the defendant, L. D. Harris, guilty of murder"; as charged in this indictment in which case the

A. I didn't mark it.

Q. "I then jumped over the counter behind which Mr. Bennett was laying, with his head turned up against the wall" and the word "head" there is written by Mr. Sprawls?

A. He is the one said it.

[fol. 168] Q. Who put that "L. D." there?

A. I did.

Q. So you corrected this paper to that extent?

A. I didn't correct it. I didn't make it out.

Q. When he finished reading it over, then Mr. Richardson was standing there and Mr. Fallaw, the Sheriff was sitting there?

Q. Well I know Mr. Price was.

Q. And then you signed this paper?

A. Yes, sir; I signed it.

Q. And these gentlemen witnessed it, G. R. Richardson and Sheriff W. Price Fallaw?

A. That is the only place I writ on that paper.

Q. That "L. D." you put that down there?

A. No, sir; I thought that was my whole name. I ain't put that there.

Q. Who put that there?

A. Well that is just one sheet. That other sheet.

Q. You signed both sheets?

A. Yes, sir; I put my whole name on that one.

Q. You can write pretty well?

A. Not good.

Q. Write pretty good?

A. I ain't no good on writing.

Q. I see—so then you had two signed statements there?

A. Yes, sir; two signed.

Q. But you say that Wylie Bennett didn't tell you what you told the officers?

A. No, sir.

Q. He never did have your pistol?

A. No, sir.

Q. Never got the balls?

A. No, sir.

Q. And he had nothing to do with the killing?

A. If he had anything to do with it I don't know it.

Q. In other words you exonerate him?

A. I don't know.

form of your verdict would simply be the one word "Guilty". That would mean, gentlemen, that it would become my duty under the law to sentence L. D. Harris to death by electrocution.

The second possible form of your verdict, gentlemen, would be a verdict of "Guilty" with recommendation to the mercy of the Court, whereupon, gentlemen, it would become my duty to sentence the defendant, L. D. Harris to the penitentiary for the remainder of his life at hard labor.

Of course, gentlemen, the third possible form of your verdict is a verdict of "Not guilty" in which case the form would be simply the two words, "Not Guilty".

[fol. 179] Whatever your verdict is, Mr. Foreman, you will write it on the back of this indictment under the word "Verdict" and sign your name underneath the word "foreman".

Any of the exhibits, gentlemen, that have been offered in evidence you have a right to carry with you in your jury room.

During your deliberations should any question arise as to any part of the testimony, you make it known to the Court and I will have the Stenographer read you any portion of any witness or witnesses' testimony you may desire.

You may retire, gentlemen, and start your deliberations.

(The Jury retired.)

Court took a recess for the dinner hour at 1:00 P.M. and reconvened at 3:00 P.M.

(The ba-liff in charge of the jury told the Judge that the Jury wished to ask for some information. Whereupon the Jury returned to the Court room.)

REQUEST THAT TESTIMONY OF MR. SPRAWS BE READ TO THE JURY

The Court: Mr. Foreman, I understand from the Bailiff that you desire some testimony read to you. Is that correct?

The Foreman: That's right.

The Court: What do you want read?

The Foreman: We want Mr. Sprawls' testimony about the gun.

(The testimony requested by the Jury was read to the Jury by the Stenographer whereupon the Jury retired.)

Q. You don't charge him with having anything to do with the crime?

A. I didn't figure myself much with it for I didn't know anything about it.

Q. Have you written your mother since you have been home?

A. I write her the address I thought I had.

Q. When she carried this pistol to Johnston, at your in-[fol. 169] structions, did she write you and tell you about it?

A. I disremember. I wouldn't say she wrote and told me or didn't.

Q. She never did write and say she delivered the pistol according to your instructions?

A. I wouldn't say.

Q. When is the last time you heard from her?

A. I ain't heard from her since I left Tennessee.

Q. You heard from her often there?

A. Yes, sir.

Q. Where were the letters from?

A. Brooklyn, N. Y. I don't know the address.

Q. You haven't written her?

A. I don't know the address.

Q. How large a man was Mr. Bennett?

A. I don't know.

Q. How large a woman was Mrs. Bennett?

A. I don't know.

Q. How many children around that house?

A. I don't know. I ain't seen it.

Q. Where wa's that little boy when you jumped over the counter?

A. I ain't never jumped over the counter.

Q. Went through the door?

A. I ain't never been there.

Q. Do you know where Aiken County is?

A. I know where some parts is.

Q. Do you know where Vaucluse is?

A. Yes, sir.

Q. Do you know where Graniteville is?

A. Yes, sir.

Q. Know where Buggers is?

A. Yes, sir.

Q. You been on that road lots of times coming to Aiken?

A. No, sir.

Q. How did you come to Aiken?

(The Jury sent word to the Court that it had agreed.)

The Court: Now you spectators, I understand the jury has agreed. Whatever the verdict is I want to warn you that we don't want any demonstration of any kind. We are not going to allow it. Bring them in.

VERDICT

(Jury returned.)

(Jury polled.)

Verdict: "Guilty."

MOTION TO SET ASIDE VERDICT

Mr. Lybrand: May it please the Court, the defense at this point moves the Court that the verdict by the jury of "Guilty" be set aside on two grounds: 1st, that the Court erred in refusing the motion of the defense with reference [fol. 180] to whether or not the confession was free and voluntarily made by the defendant, in that it was shown by the witnesses on the stand, that the confession was not made freely and voluntarily, but it was as a result of threats, intimidations and also the result of a hope of reward or promise of reward made by the officers.

Now that is our first ground.

Now the second ground of the motion is that the Court erred in its instructions to the jury in that it failed to give a complete definition of what constituted a confession freely and voluntarily made. Now, as I recall, the Court instructed the jury that a confession—that it was a question of fact for the jury to decide as to whether or not this confession was made freely and voluntarily and following that instructions further instructed the jury that if they found as a matter of fact that the confession was the result of threats or intimidations, duress and other conditions, or either of them, that then they would find it would be their duty to find that the defendant was "not guilty"; but the Court did not charge the Jury on the other proposition, that is to say as to the reward or hope of reward.

(Here Counsel argues the point, citing cases, etc.)

The Court: I am satisfied to let it rest in the language I charged it. There is no question in my mind that that jury understood as to what I meant by it "must be freely and

- A. I come through Steifeltown and catch the bus.
 — Travelling around like you do and don't know where the Bennett's store is?
- A. No, sir.
- Q. Don't want to look at it any more?
- A. I don't understand you.
- Q. Which one of these statements you signed is true?
- A. Neither one.
- Q. You mean that?
- A. I mean it from my heart for it is the truth.
- Q. You ain't mad with me?
- A. No, sir; all you got to do is ask me questions. That is what you are there for and I am to tell the truth.
- [fol. 170] Q. You mean Mr. Dollard told you he would hit you with what?
- A. That rubber hose and rope.
- Q. Did you see the rubber hose?
- A. I ain't seen it.
- Q. See the rope?
- A. I ain't seen it.
- Q. What did he say?
- A. He said "Tonight he would have that rubber hose and rope and I would get something I ain't never had."
- Q. The Sheriff never laid his hands on you?
- A. No, sir.
- Q. The only men you say ever done you wrong was Mr. Sprawls and Mr. Thompson?
- A. Yes, sir.
- Q. And the other men didn't lay their hands on you?
- A. No, sir; but I would rather him lay his hand on me than to tell me what he did.
- Q. How old are you?
- A. I am 25 in October gone.
- Q. Who was in that office late in the afternoon when the Sheriff went back there—when you first made this statement to the Sheriff, who was there?
- A. It was more than him and Mr. Baker, I know that.
- Q. And then all got out except the Sheriff?
- A. When he was talking to me, yes, sir.
- Q. Got out at your request?
- A. Yes, sir.
- The Solicitor: That will do.
 Mr. Salley: Come down.

Mr. Lybrand: The defense rests.

The Court: Anything in reply, Mr. Solicitor?

Mr. Solicitor: Yes, Your Honor.

TESTIMONY IN REPLY BY THE STATE

J. E. DOLLARD, (white) sworn, testified:

Direct examination.

By the Solicitor:

Q. You are a member of the State Constabulary?

A. Yes, sir.

Q. You were engaged along with these other officers to make an investigation in this case?

A. Yes, sir.

Q. When the defendant was on the stand in the course of his examination direct and cross, he stated to the effect that on Wednesday afternoon while the officers were interrogating [fol. 171] him in the jail in Aiken that you were present and that you said in effect to him that when you got through with him that night with the rubber hose and rope that you would get something out of him he didn't know he had, or words to that effect. Did you or not make any statement of that kind to him?

A. No, sir.

Q. On that or any other occasion?

A. No, sir.

The Solicitor: Cross-examine him.

Mr. Williamson: No questions.

Direct examination.

By the Solicitor:

Q. When the defendant was on the stand he testified that there was rumors or he had heard rumors to the effect that the officers had exhibited some little children of the family of Mr. Bennett to the different suspects, but neither of them had been shown to him. State whether or not you or any other officers within your knowledge had any of these suspects exhibited to either of these children for identification?

A. I did not.

Q. Why did you not have either one of these children to look upon and see the suspects?

A. Well Damiy was a little fellow, about three years old and he was the only one present and the other kids were at the hog pen.

Q. In other words the little fellow was too small to use as a witness?

A. Yes, sir.

Q. And the other children were not present?

A. No, sir.

Q. That is the reason they weren't brought to identify the suspects or this defendant?

A. Yes, sir.

Cross examination.

By Mr. Williamson:

Q. But you told me the other day you never did know about the big man they brought the child in to be identified by?

A. I did not.

Q. You never did check on it?

A. I did not.

Q. Never asked any questions about it?

A. No, sir.

[fol. 172] Q. And you never did take this man, L. D. Harris, out to the Bennetts' store to have him re-enact that crime?

A. I did not.

Q. Sent him to the penitentiary after you got the confession out of him?

A. Yes, sir.

Mr. Williamson: Thank you Sheriff.

The Solicitor: No further questions.

The Solicitor: The State will close.

MOTION FOR A DIRECTED VERDICT IN BEHALF OF THE DEFENDANT

Mr. Lybrand: Your Honor, at this point the defendant would like to make a motion.

The Court: Go in your room gentlemen. (The Jury retired.)

Mr. Lybrand: Your Honor, the defense would move at this time for a directed verdict on the ground that the evidence and testimony introduced by the prosecution is in-

voluntarily made without any threats or violence of things of that nature." I went further into it than I have in any other case. I am satisfied as to that, gentlemen.

As to the other ground, of course, my views today are what they were the other day as to the admission of the confession. That is where the evidence is conflicting. The jury undoubtedly had to resolve that against him, which they have. I will have to overrule the motion, gentlemen.

Mr. Lybrand: We will give notice of our intention to appeal from your Honor's ruling.

The Court: Very good, sir.

SENTENCE

(Whereupon sentence was pronounced by the Court.)

(Here follow 3 photolithographs side folios 180a, 180b, 180c)

sufficient to warrant a conviction of the defendant L. D. Harris. I won't go over this evidence since Your Honor is as familiar with it as we are but we also wish to base that motion upon the ground that this alleged confession was obtained under threats and promise of reward and efforts of violence to the defendant and it was made by him while he was under fear of physical harm to himself.

The Court: That is the only ground?

Mr. Lybrand: Well those are the grounds, that the evidence is insufficient to warrant a conviction and that the confession was obtained under duress and promise of reward and, of course, at this time we will renew the motion that was made earlier in the case to the testimony taken before the Court.

The Court: That is to strike out the testimony with reference to the alleged confession?

Mr. Lybrand. Yes, sir.

The Court: Gentlemen, my view of the matter to the latter point is the same as it was at the time the original motion was made. I think it is a matter to be submitted to [fol. 173] the jury with proper instructions from the Court.

As to the motion which goes directly to the substance of the case, that is of the insufficiency of evidence, I think there is sufficient evidence to go to the jury, so I will over-rule it.

JUDGE'S CHARGE TO THE JURY:

The Court: Mr. Foreman and Gentlemen of the Jury, the Defendant, in this case, L. D. Harris, stands charged by the State of South Carolina, in this indictment to the charge of murder. This defendant, gentlemen, as every defendant in the criminal courts comes into this court presumed to be innocent. That presumption of innocence remains with him throughout the entire trial of this case, until you the jury are satisfied of his guilt, as charged in this indictment, beyond a reasonable doubt. By that expression, "beyond a reasonable doubt", gentlemen, it does not mean a whimsical or fanciful doubt. One might have such a doubt as that concerning any matter, to the contrary, it means a substantial doubt. A substantial doubt arising from the testimony or from the lack of testimony. Therefore, under the law, gentlemen, should you have such a doubt as that concerning the guilt of this defendant, you would resolve that doubt in his favor and find him "not guilty".

EXHIBIT NO. 6

State of South Carolina,
County of Barnwell
AIKEN

AFFIDAVIT.

The People-Sentinel Press, Barnwell, S. C.

Personally comes... L. D. Harris..... who on oath says that this is the 17 th. day of July 1946. That I am giving this statement at my own request, without any reward or hope of any reward. That I have not been threatened or persuaded in any way to make this statement. That on April the 26 th. in front of Mary Davis's house in Graniteville I gave Wyley Bennett my gun which is a 38 S and W short. I took this gun from Annie Brown's house about three weeks before this date. It had five shells in it and Manuel Raftord gave me one more. When I gave it to Bennett it had the five shells in it. I kept the other one in my pocket. I gave him a dollar to get some more balls and I lent him a dollar. He told me that he had to have the gun so he could get the right size. Sunday morning I got up at ten o'clock exactly. I went up Jennie Matthews' house. I talked to her and went on back Net's shop and then I left and went up to a house where some women were. One girl there was named, Jessie MacSwinger. I then left and went to Bennett's. He had not been in long. This was about 12 o'clock. He was sitting put in his car which is a 1936 Chevrolet Coupe with his head all hung down. I asked him what was the matter with him. He said nothing. He asked what was you all drinking? J. T. Medlock was now with me. I had gone to his house on the way to Wyley Bennett's. I told him nothing. He said lets go and get a drink. I asked where and he said up to Dug Davis. We three went there and got a half of a pint. We stayed there and talked a while. I told then lets go. We left and come on back to in front of Nets. We met my cousin Henry Butler. I asked him where he was going. He said that he was going to Adam Newsom's Cafe. We three went on by J. T.'s house. We put J. T. out, and then Wyley carried me on by home. I got out of the car. I asked him ~~if he had gotten~~ if he had gotten the bullets. He said no. He said that he could not find any bullets. He then gave me the gun and he told me that something bad had happened. I asked him what was it. He told me that he had gotten in a little trouble with my gun. He told me to be careful with the gun and not let anybody catch me with the gun. I asked him why. He told me that he had shot some one with the gun. I then asked him who was it. He told me that him and some white folks had gotten into a fuss and acted like they wanted to hurt him. I asked him if he killed them and how many did he shoot. He said that he did not know where he killed them or not. He was not going to let no God dam son of a bitch hurt him. So I asked him again if he killed them and said that he did not know, he rushed on off. That is why I did not take the pistol to Johnston that Wednesday. I left it home and told Charley Williams that ~~I would~~ send it to him. My mother carried it to Teetsey's Cafe in Johnston. I was scared that some one would catch me with the gun. Wyley said that he would tell me more about it monday night, but I never saw him. Bennett told me that the ~~what~~ he shot were a man and a woman. I asked him who saw him and he said no one. When I got the gun back four shots had been fired and one was left in it. Bronson Gary Burnett shot the gun near the Aiken trash pile on Tuesday night April 30 th. 1946.

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Witness

(Seal)

Witness

W. E. Baker

STATE OF SOUTH CAROLINA,

County of Barnwell

Personally appeared before me

W. E. Baker

and made

oath that he saw the within named

L. D. Harris

sign and seal

the within instrument, and that he with

W. E. Long

witnessed

the execution thereof.

Sworn and subscribed to before me this

17th day of July 1946.

- G. J. Baker

Notary Public for S. C.

G. J. Baker

(L. S.)

EXHIBIT NO. 4

It is agreed that the pencil underlinings appearing on this exhibit were made by the Solicitor, but neither he nor counsel for defence can recall at what stage of the case or trial they were made.

It is also agreed that all exhibits were delivered to the jury upon retiring to consider the case.

State of South Carolina,
County of Barnwell

AFFIDAVIT.

The People vs. Bennett, S. C.

Personally comes L. D. Harris, who ~~says~~ says that on Sunday morning April 26th, 1946 I left home about nine o'clock. I was on my way to Aiken walking from Graniteville to Aiken. I came up the trolley bed line from Reney Park and then cut across to the Vancause Road. As I was walkink up the road I got in site of the store and I did not know whose store it was. I had some sort of funny feeling that I had never had before. I went on in the store. I askef for a pack of Camel Cigaretts and then I asked for some meat, Baloney meat and fat back. When I asked for the boloney he came from behind the counter and went to the ice box and he got the meat out and went back behind the counter. I asked for some other things but I can't remember anything except Irish Potatoes. He put the potatoes up on the scales and as he was weighing them up he ~~xxxxxx~~ he leaned down to get more and as he straightened up I fired three times at him. I do not exactly where they hit him. His wife ~~xxxxxx~~ started into the store and turned around and I fired at her. I then jumped over the counter behind which Mr. Bennett was laying with his ~~turn~~ turned up against the wall. I reached in left hand hip pocket and pulled out his bill fold. I reached into the money draw after I had pulled it nearly out and got the change out of the draw. I went on out from behind the counter and walked on out the front door. Went on straight on cross in front of the store and on into the woods. Went on toward Kalmia Hill, I went a long way down that road and then climed up a steep bank and then turned and went down cemetary road to Graniteville. I went to a shop in front of Day's store, near

~~xxxxxx~~ his wife ~~xxxxxx~~ started into the store and turned around and I fired at her. I then jumped over the counter behind which Mr. Bennett was laying with his ~~turn~~ turned up against the wall. I reached in left hand hip pocket and pulled out his bill fold. I reached into the money draw after I had pulled it nearly out and got the change out of the draw. I went on out from behing the counter and walked on out the front door. Went on straight on cross in front of the store and on into the woods. Went on toward Kalmia Hill, I went a long way down that road and then climed up a steep bank and then turned and went down cemetary road to Graniteville. I want to a shop in front of Day's store, near

Witness

(Seal)

Witness

STATE OF SOUTH CAROLINA

County of Barnwell.

Personally appeared before me and made oath that he saw the within named sign and seal the within instrument, and that he with witnessed the execution thereof.

Sworn and subscribed to before me this

day of 1946.

Notary Public for S. C.

(L. S.)

State of South Carolina,
County of Barnwell.

AFFIDAVIT.

The People's Standard Press, Barnwell, S. C.

Fox Crossing. I went on in the shop and bought a couple of sandwiches and a couple of drinks. I left this shop and went to Virginia Matthews house and on my way to the house I counted the money. I had either \$152.00 or \$162.00 I do not remember which. The largest bill was a ten. There were eight or nine of them. The rest was in ones and fives and the rest was in change. When I got Virginia's house I sat down in the swing and talked. About ten or fifteen minutes later Medlock, J. T. he come along. I then walked to his house with him. He took a bath and changed his clothes and shined his shoes. We then came on back to my house. I eat dinner. We walked back up to the corner and we talked with some girls. We then left there and went on to Buggers. We then went and bought some whiskey. J. T. and I bought one pint together. We drank the whiskey and went on up to Wyley Bennett's. We rode over to dug Davis house. Wyley Bennett, J. T. and I were together. We bought another half pint of whiskey there. He went sixty five and I paid sixty. We left there and went back to Adam Newsom. I saw Henry Butler and asked him where he was going. He said that he was going there too. We went on and put J. T. out

Bennett, J. T. and I were together. We bought another half pint of whiskey there. He went sixty five and I paid sixty. We left there and went back to Adam Newsom. I saw Henry Butler and asked him where he was going. He said that he was going there too. We went on and put J. T. out at his house. Wyley then carried me on home and put me out. It was now getting late in the afternoon. I went to work Monday. I spent money and had a good time buying whiskey and beer. I worked Tuesday. I was Bronson Mc Gary Bennett and Lucille Johnson. We picked up two girls and a boy. We bought a lot of liquor and beer in Aiken, we went out to the trash pile and Bronson shot the pistol once and left one ball in it. This is the ~~witness~~ pistol that ~~witness~~ I used in the Bennett killing. My ~~witness~~ ~~lent~~ this pistol to Johnson for Charley Williams to keep for me.)

STATE OF SOUTH CAROLINA. *W. T. Richardson* *L. E. F. - 19* SEAL
County of Barnwell.

Personally appeared before me *W. T. Richardson* and made oath that he saw the within named sign and seal the within instrument, and that he witnessed the execution thereof.

Sworn and subscribed to before me this

17th day of *January*, 1904.

Notary Public for S. C.

G. R. Richardson (L. S.)

200C

[fol. 181] IN SUPREME COURT OF SOUTH CAROLINA

EXCEPTIONS

- I. That the Court erred in allowing testimony to be admitted relating to an alleged confession by the appellant, it being respectfully submitted that the evidence clearly shows that said alleged confession was not freely and voluntarily given; but on the contrary, was obtained by threats, intimidation, physical violence, and offer or hope of reward, and should, therefore, have been excluded; further, that appellant was thereby deprived of his life and liberty, without due process of law.
- II. That the Court erred in refusing appellant's motion for a new trial, made after a spectator, in the presence of the Court and Jury, uttered the following statement: "We are wasting some mighty good money trying a son-of-a-bitch like that"; it being respectfully submitted that the statement was such as to unduly prejudice the jurors in rendering their verdict of conviction of the appellant; further, that appellant was thereby deprived of his life and liberty, without due process of law.
- III. That the Court erred in refusing to grant appellant's motions for a directed verdict and mistrial, at the close of the testimony and the trial, it being respectfully submitted that there was not sufficient evidence on which to find appellant guilty of the crime charged.
- IV. That the Court erred in failing to fully charge the Jury as to what constitutes a voluntary confession, it being respectfully submitted that the testimony of the witnesses established that the alleged written confession was obtained by the offer or hope of reward, and said charge did not include this element of the definition of a voluntary confession; further, that appellant was thereby deprived of his life and liberty, without due process of law.
- V. That appellant should be granted a new trial on the ground that after the Court ruled that the testimony was not sufficient for conviction, without the alleged written confession, the same was altered in that certain portions [fol. 182] thereof were underlined and emphasized, after having been introduced in evidence and before having been submitted to the jury for its use and consideration in its

deliberation; further, that appellant was thereby deprived of his life and liberty without due process of law.

[fol. 183] AGREEMENT AS TO RECORD

We hereby agree that the foregoing shall constitute the Transcript of Record on appeal to the Supreme Court in the above entitled case.

Julian B. Salley, Jr., Leonard A. Williamson, Dorcey Lybrand, Attorneys for Appellant. B. D. Carter, Solicitor, Attorney for Respondent.

CERTIFICATION

I hereby certify that the foregoing is a true and correct copy of the Transcript of Record herein on appeal, as shown by the original on file in my office.

Thos. T. Cushman, Clerk of Court, Aiken County, by
Sallie M. Cushman, Deputy Clerk, Aiken County,
S. C. (Seal.)

[fol. 184] IN THE SUPREME COURT OF SOUTH CAROLINA

THE STATE, Respondent

vs.

L. D. HARRIS, Appellant

Appeal from Aiken County

J. Robert Martin, Jr., Judge

Case No. 2898

Affirmed

Julian B. Salley, Jr., Leonard A. Williamson and Dorcey Lybrand, all of Aiken, for appellant.

Solicitor B. D. Carter, of Bamberg, for respondent.

OPINION No. 16046—Filed February 18, 1948

STUKES, A.J.:

Edward E. Bennett and his wife operated a country store and filling station near the city of Aiken, with upstairs quarters in which they and their small children lived. He

was found on the morning of April 28, 1946 slumped behind his store counter mortally wounded, and his wife lay a few feet away near the entrance to the adjoining kitchen, with a bullet wound from which she died upon removal to a hospital. The witness who first arrived spoke to Bennett who was still alive, shot through the mouth and bleeding profusely. He requested that he be rushed to a hospital, saying that he was dying and with the remark, "a big negro shot me and robbed me", he died. His little children were crying about him. The body was beside an open sack of potatoes and on the scale on the counter were some potatoes, and other articles lay there as if placed for a customer in the act of buying. No money was found on the person of the deceased and the open cash drawer was likewise empty.

Appellant was indicted and arraigned at the October 1946 term of the Court of General Sessions for Aiken County, charged with the murder, by shooting, of Bennett. He was without counsel and the court appointed Messrs. Salley, Jr., Williamson and Lybrand, Attorneys of the Aiken Bar, to represent him. This they have done with commendable energy and skill. The trial was not had at that term of court and there was a special term in January 1947, at which appellant was tried, convicted and sentenced to death. This appeal followed. Between the term of court at which appellant was indicted and that at which he was tried, he was imprisoned at the State Penitentiary in Columbia, where his counsel were permitted to, and did, consult with him concerning his defense of not guilty, which plea was entered in his behalf. The exceptions raise the questions which will be discussed. Chief of them imputes error in the admission in evidence of the confession of the crime by appellant, first orally to the examining officers, and then in writing, signed by the appellant. All of the record relating to it has been carefully considered and will be reviewed.

The trial judge first heard testimony relevant to the admissibility of the confession in the absence of the jury, agreeable to motion of appellant's counsel. After hearing the testimony of the officers and of appellant, the latter elicited by the questions of his counsel and without cross-examination, the court concluded that insufficient evidence was adduced to render the confession incompetent for intimidation or inducement, by threat or offer of reward, in other words that it was free and voluntary within the rule.

[fol. 185] The testimony of appellant anent the confession may be fairly summarized as follows: He was arrested in Nashville, Tenn., by local officers and there Sheriff Fallaw of Aiken County and State Constable Thompson took him from the jail and returned with him to Aiken by automobile in one day, arriving there about four or five o'clock in the afternoon of Sunday, July 14, 1946, and placed him in jail. He was not questioned until the following Monday afternoon when he was taken by the sheriff and the jailor to the court house where he was told that the F. B. I. reported that he had killed the Bennetts with his pistol, which appellant denied. He was interviewed on that occasion for not over fifteen minutes. On Monday night at about seven or seven-thirty he was questioned by the officers, four in all including the jailor, at the jail, in the small office used for such interviews and for consultations between prisoners and their counsel. There were some six chairs and a desk and table in the room. This interview, he said, was a little over an hour, during which he was accused of the homicide and upon his denial the officers insisted upon his guilt. It appears that the questions and answers related to appellant's movements on the day of the crime but nothing was done at that time to influence his answers. Tuesday afternoon this procedure was repeated, there being present three officers. Appellant's references to one Medlock caused the officers to send for him and appellant was meanwhile returned to his cell. Questioned as to whether there were actions by the officers which influenced his statements, appellant said that upon his repeated denials of guilty knowledge, Constable Thompson said that he was lying.

Tuesday night he was questioned again by four officers for two or three hours, he said by one of the officers at his side and the others behind him and that Constable Thompson, with the back of his hand, struck him on the side of his face at the time that he accused him of lying, but the witness later said that the blow was with the palm of the officer's hand, and sufficiently hard to have staggered him had he been standing. After this incident Thompson retired from the room and appellant said he was not afterward there much. Appellant also said that Officer Sprawls struck him on the same side of the face as did Thompson, this at the time Sprawls was at a typewriter typing a statement which appellant later signed. Afterward Wylie Ben-

nett was brought in and discussed the case with appellant. All of this occurred on Tuesday night. On the next afternoon, Wednesday, he was questioned at the jail again and he said that one large officer had a blackjack shaking it at him. The jailor was absent. Appellant sat with his back to the wall and facing the officers. He said one of the officers made this threat: "I will tell you one thing, if you don't say you did kill those people, we will get a rope and rubber hose and you know what we will do." The reference was to State Officer Dollard, whom appellant did not know but identified in the court room. Appellant further quoted this officer as saying that when he got through with the rubber hose and rope he would get something from appellant that the latter did not know he had; this in the presence of the sheriff and Chief State Officer Richardson and another officer. The officers whom appellant accused in testimony of having struck him at a previous interview were not present, but the officer who had got out his blackjack before, had it again, swinging it, appellant said. This occasion lasted from an hour and a half to two hours and a half during which appellant persisted in his denial and after which he was taken back to his cell. Then Wednesday night he was interviewed again by the officers, beginning about eight o'clock, but he was questioned only by the sheriff, the other officers standing in the hall, and appellant testified there were no threats on this final occasion except that the sheriff told appellant that if he did not confess, his mother would be arrested or that a warrant would be issued therefor. Appellant then admitted his confession but testified that it was given because the officers would not believe his claims of innocence and that the sheriff dictated the written confession, which he merely repeated under the influence of fear of the former threats. On further questioning he was asked whether the threat of the arrest of his mother induced the confession and he replied in the negative.

The testimony of the officers relating to the confession [fol. 186] was taken immediately before that of appellant, also in the absence of the jury, under questioning by the Solicitor and cross-examination by appellant's counsel. They were subjected to sequestration in the giving of their separate testimony. The agreed transcript of record recites that it was substantially the same as that of the

officers later in the presence of the jury. From the transcript of the latter the following is taken:

First it may be said that all of the officers testified in such manner as to carry conviction that the confession was not the result of fear, intimidation, physical force or punishment or under the influence of any promise of immunity, leniency or other reward. The sheriff said appellant's confession was made in the jail office or consultation room, small but sufficient to accommodate six or seven people in comfort, and there were several chairs in one of which appellant sat during all of the questioning. Appellant was placed in the Aiken jail on Sunday, July 14, 1946, and was not questioned until Monday afternoon when he was taken to the court house for a few minutes for that purpose. Then on Tuesday afternoon he was again questioned for a short time; and similarly Tuesday night. However, the sheriff was not present on the last stated occasion. Besides the sheriff, except when he was absent, the questioning was by the Chief of the State Constabulary, Mr. Richardson, Aiken City Police Chief Sprawls, and State officers (or constables) Thompson and Long. They did not attend appellant together at one time, but were in and out during the questioning. Jailor Baker also occasionally took part. However, his "day off" was Wednesday and the sheriff took his place at the jail. The sheriff did not question appellant during the afternoon and was sitting at the jail desk at about 6:30 or 7:00 o'clock when Baker returned and the sheriff questioned appellant again. The sheriff's testimony at this point is quoted, as follows:

"Q. Now after these officers left, did you or not, late in the afternoon talk to him again? A. I didn't talk to him that afternoon. I just sat up on the desk and I locked him back up in the cell and came on out to the office and about 6:30 or 7:00, Mr. Baker came in and I went out there to talk to him again. No one was there but me and Mr. Baker and I told him I was going to swear out a warrant for his mother for transporting this stolen property and he said, 'don't get my mother mixed up in it and I will tell you the truth' and he wanted to talk to me by myself and Mr. Baker got up and went out. He said he didn't want to get his mother mixed up in it and I didn't promise

him anything. I said, 'it looked like I would have to swear out a warrant for her' and he said he would tell me the truth and he said he left home about nine o'clock that Sunday morning, walking to Aiken and came to the trolley line bed from Renney Park and turned left over to the Vaucluse Road and came up to the filling station and when he got to the filling station he went in and had a funny feeling like he never had in his life before and he bought a pack of cigarettes, some bacon and balony and a couple of cans of meat and a package of snuff and then he decided he wanted some irish potatoes and then he said Mr. Bennett put a few in the scales and as he went down to pick up some more and as he straightened up, Harris said he shot Mr. Bennett three times and he heard a lady hollering and he turned to shoot her and she ran and he shot her one time. Said he jumped over the counter and got his pocket book and I said, 'which pocket' and he said, 'the left one' and he said he got the change out of the drawer and went into the woods and followed the woods all the way to that steep hill and turned down the road by the cemetery and went on to Buggers to a little restaurant and bought a couple of sandwiches and two drinks and he left there and went to Virginia's house and on the way to Virginia's house, he counted the money and it was either \$152. or \$162. and said he got eight or ten dollars in change."

Immediately upon this confession the sheriff called the police station and summoned State Officers (Chief) Richardson and Thompson; the former came immediately and the latter a few minutes later. The prisoner repeated the entire statement in the presence of the sheriff and Chief [fol. 187] Richardson; Thompson arrived in time to hear some of it. None could use a typewriter, so City Chief Sprawls was summoned to type the statement, which he did as the words came from the prisoner, and after it was written it was read over to him and he signed it, without, all of the officers testified, any threat or promise. The prisoner said the shooting was done with the 38 calibre, hammerless pistol which Williams had and which the officers recovered from Williams and introduced in evidence. It was about midnight when the writing of the confession and the signing of it were completed. Appellant was then taken to the State Penitentiary in Columbia for safekeeping. The writ-

ten confession upon which the conviction was obtained is here reproduced:

"STATE OF SOUTH CAROLINA,
County of Aiken:

Personally comes L. D. Harris who says that on Sunday Morning April 28th. 1946 I left home about nine o'clock. I was on my way to Aiken walking from Graniteville to Aiken. I came up the trolley bed line from Raney Park and then cut across to the Vaucluse Road. As I was walking up the road I got in site of the store I did not know whose store it was. *I had some sort of funny feeling that I had never had before.* I went on in the store. I asked for a pack of Camel Cigaretts and then I asked for some meat, Baloney meat and fat back. When I asked for the baloney he came from behind the counter and went to the ice box and he got the meat out and went back behind the counter. I asked for some other things but I can't remember anything except Irish Potatoes. He put the potatoes up on the scales *and as he was weighing them up he xxxxxxx he leaned down to get more and as he straightened up I fired three times at him.* I do not exactly where they hit him. His wife xxxxxxx starfed into the store *and turned around* and I fired at her. I then jumped over the counter behind which Mr. Bennett was laying with his head turned up against the wall. I reached in *left hand hip pocket* and pulled out his bill fold. I *reached into the money draw after I had pulled it nearly out* and got the change out of the draw. I went on out from behind the counter and walked on out the front door. Went on straight on across in front of the store and on into the woods. Went on toward Kalmia Hill, I went a long way down that road and *then climbed up a steep bank and then turned and went down cemetery road to Graniteville.* I *went to a shop in front of Day's store, near Fox Crossing.* I went on in the shop and *bought a couple of sandwitches and a couple of drinks.* I left this shop and went to Virginia Matthews house and *on my way to the house I counted the money.* I had either \$152.00 or \$162.00 I do not remember which. *The largest bill was a ten. There were eight or nine of them.* The rest was in ones and fives and the rest was in change. When I got Virginia's house I sat down in the swing and talkéd. About ten or fifteen minutes later Medlock, J. T. he come along. I t-en walked to his house with him. He

took a bath and changed clothes and shined his shoes. We then came on back to my house. I eat dinner. We walked back up to the corner and we talked with some girls. We then left there and went on to Buggers. We then went and bought some whiskey. J. T. and I bought one pint together. We drank the whiskey and went on up to Wyley Bennetts. We rode over to dug Davis house. Wyley Bennett, J. T. and I were together. We bought another half pint of whiskey there. He went sixty five and I paid sixty. We left there and went back to Adam Newsom. I saw Henry Butler and asked him where he was going. He said that he was going there too. We went on and put J. T. out at his house. Wyley then carried me on home and put me out. It was now getting late in the afternoon. I went to work Monday, I spent money and had a good time buying whiskey and beer. Monday night. I worked Tuesday. I was with Bronson Gary McBonnett and Lucille Johnson. We picked up two girls and a boy. We bought a lot of liquor and beer in Aiken, we went out to the trash pile and Bronson shot the pistol once and left one ball in it. This is the pistol that I used in the Bennett killing. My xxxx xxxxxx this pistol to Johnson for Charley Williams to keep for me.

[fol. 188]

L. D. Harris. (Seal.)

Witness G. R. Richardson.

Witness W. Price Fallaw.

STATE OF SOUTH CAROLINA,

County of Aiken:

Personally appeared before me W. P. Fallaw and made oath that he saw the within named L. D. Harris sign and seal the within instrument, and that he with G. R. Richardson witnessed the execution thereof.

Sworn and subscribed to before me this 17th day of July, 1946.

G. R. Richardson (L.S.)"

J. M. Sprawls, Notary Public for S. C.

On Tuesday night when the sheriff was not at the jail to take part in the questioning of appellant the latter made a statement which was typed by officer Sprawls and signed by appellant which implicated Wylie Bennett in the commission of the crime. It recited that appellant took from

Annie Brown's house the 38 S & W pistol about three weeks before and had given it to Bennett who was to buy more cartridges for it; that on the day of the homicide appellant went to this Bennett's home about noon and found him dejected and on inquiry Bennett said that he had gotten into trouble with the gun and had shot a man and a woman; he cautioned appellant not to be caught with the gun. Wylie Bennett was at this time serving a sentence on the Aiken County chaingang for a minor crime and one of the officers went and brought him to confront appellant in the jail. He denied appellant's statement incriminating him, which, however, appellant insisted at that time was true. This prolonged the period of questioning until about midnight.

Chief Richardson of the State Constabulary testified that he first saw appellant on Wednesday and participated in the questioning of appellant for probably less than an hour. The prisoner denied killing the Bennetts but did not then accuse Wylie Bennett as he had the night before until he was faced by Wylie Bennett and his denial. Thereafter Richardson was called back to the jail by the sheriff at about 9:00 or 9:30 o'clock in the evening and found only the sheriff and the appellant in the jail office where both were sitting. Appellant proceeded to make the confession which has been quoted, without threat, intimidation or promise of reward. Meanwhile officer Thompson, who had also been called by the sheriff, arrived and heard the confession. After it was reduced to writing by officer Sprawls, summoned for the purpose, Chief Richardson was present when Sprawls read it over to appellant. This was near 11:00 P.M. Thereupon Chief Richardson and his officer Dollard left to take the appellant to the State penitentiary.

State Officer Thompson testified that he had taken part in the investigation from the beginning and accompanied the sheriff to Nashville to bring appellant back on a warrant for larceny of the pistol. He alone questioned appellant on the automobile trip to Aiken and he admitted obtaining a 38 pistol from Annie Brown for which he said he exchanged a 32 Colt and that his mother had taken the Brown pistol for delivery to Charlie Williams. On that information this officer recovered the 38 pistol from Charlie Williams' home, which was that in evidence. This witness participated in the questioning of appellant in the jail office on Tuesday night and was told by appellant that if the other officers would absent themselves he would tell the

witness the whole thing. Then appellant for the first time implicated Wylie Bennett and Thompson called the jailor, another State officer and City Police Chief Sprawls, the latter to type appellant's statement. When this was in progress Thompson went to the chagingang and brought Wylie Bennett to the jail, which took some time. Thereupon appellant accused Wylie Bennett of the crime and charged him with having admitted it, which was denied by [fol. 189] Wylie. Thereupon the witness, Officer Thompson, got up and slapped appellant on the shoulder and said, "you are not telling the truth." Thompson had little to do with the questioning Wednesday, being, as he said, "in and out," until he was summoned to the jail by Chief Richardson that night to hear the confession, the Chief stating upon his entrance, in the presence of appellant, that appellant had decided to tell the truth. Thompson had been a State officer since 1935 and during the eleven years' experience had been investigating crimes. He was designated by Chief Richardson to devote his whole time to the Bennett homicide until it was solved. In the course of his investigation he was informed that Annie Brown had complained that someone had stolen her pistol and he visited Annie Brown, who told him she suspected appellant of the theft which included seven cartridges. She had three left which, upon examination, he found to be of 38 calibre, the same as those which were extracted from Bennett's body. This was reported to the sheriff and after some further investigation the latter procured the warrant for appellant which charged him with larceny of the pistol. The warrant was mailed to the authorities in Nashville, where the officers learned appellant went shortly after the crime, and he was arrested there. Notice came to Aiken late on Friday afternoon, July 12th, and the trip was made next day to return appellant to Aiken.

The foregoing is an impartial summary of appellant's testimony and that of the officers which related to the circumstances of the confession and the means pursued to procure it. The officers were subjected to extended cross-examination by appellant's counsel but no new facts were elicited and they did not contradict themselves or each other although they were subjected to the test of sequestration. They were all long-experienced in law enforcement and criminal investigation. Their testimony indicates no animosity toward appellant or excess of zeal in the perform-

ance of their duties. Of course, Officer Thompson should not have slapped appellant, however lightly, on the shoulder or on the side of his face, as appellant claimed in his testimony. But this occurred on the day before the confession was made, after which Thompson admittedly asked no more questions and had little to do with the case. It would be unreasonable to conclude that the incident induced the confession; certainly it was insufficient to remove the issue of the voluntary nature of the confession from the province of the jury where it ordinarily belongs in such cases of conflicting evidence.

Appellant's counsel moved upon the following grounds to exclude the confession:

"A. That the alleged confession was not freely and voluntarily given, but on the contrary, as a matter of law, is not a confession which the law will recognize as such in that it was extorted by the use of physical force, violence, fear, threats, intimidation, duress and under such circumstances as to preclude any possibility that it was free and voluntary.

"B. That to admit this alleged confession in evidence under the circumstances disclosed by the evidence would constitute a deprivation of the rights of the Defendant as guaranteed by the 14th Amendment of the Constitution of the United States of America and the right to a fair and impartial trial as guaranteed by the Constitution of the State of South Carolina."

The trial judge heard the motion in the absence of the jury and concluded that the confession was admissible; but he later very fully instructed the jury that they should finally decide, in the light of all of the evidence, whether the confession was in fact freely made and voluntary, and that they should exclude it from their consideration if they found that it was not and, in effect, acquit the appellant. The pertinent portion of the charge to the jury was as follows:

[fol. 190] "Now, gentlemen, there has been introduced in the evidence here for your consideration an alleged confession, purportedly made by the defendant. That alleged confession, gentlemen, is repudiated by this defendant. In other words, today in Court he denies that confession, or alleged confession. That presents, gentlemen, an issue of fact for your determination, under all of the facts and circumstances in this case.

"Now in passing upon that issue of fact, gentlemen, this is the rule that you would apply. The question is whether the alleged statement was made freely and voluntarily, and, unless it was free and voluntary, you are to disregard it and pay no attention to it. It is for you, the jury, to say if the defendant made a confession and, if so, whether it was made under duress or in fear. If it was, you are to disregard it; otherwise, if it was made freely and voluntarily you would give it such weight as it has on your mind.

"In other words, gentlemen, it is an issue of fact for you to determine from all of the facts and surroundings connected with the alleged confession. It is for you to say, gentlemen, if the alleged confession was made freely and voluntarily; it is for you to say, gentlemen, as to whether any coercion, duress, fear or intimidation entered into the securing of that alleged confession. Should you conclude, gentlemen, from your view of these facts and circumstances surrounding the obtaining of the alleged confession that it was not obtained freely and voluntarily, or should you conclude, gentlemen, that there was any intimidation and I will say 'any intimidation', duress, coercion, exerted by the officers in obtaining the alleged confession, you are to disregard it gentlemen, and it goes out of the case. In that connection I will also instruct you gentlemen, that should you conclude from your view of the facts and circumstances surrounding this alleged confession—should you conclude, gentlemen, that it was not obtained freely and voluntarily from this defendant, it would not only go out of the case, gentlemen, but it would be your duty and I so instruct you to find a verdict of 'not guilty' for this defendant, because, gentlemen, should you conclude that that alleged confession was not freely and voluntarily obtained from this defendant, it, as I have instructed you would go out of the case which would, gentlemen, take from the State's case any testimony sufficient for my presenting the issue of his guilt to you. In other words, gentlemen, should that confession under your view of the facts and circumstances surrounding the obtaining of it go out of the case, there is not sufficient testimony with it out to render a verdict of guilty against this defendant.

"Of course, gentlemen, should you conclude on the other hand the alleged confession was freely and voluntarily obtained it would remain in the case as part of the evidence of

the case to be considered along with all of the other facts and circumstances in the case in passing upon the guilt or innocence of this defendant."

This was a faithful following of the established rule in this State with respect to repudiated pre-trial confessions. Our last, and rather full, authority on the subject is State vs. Miller, 1947, — S. C. —, 45 S. E. (2d) 23, where the general rule is restated from the older cases which are cited, as follows: "A confession is not admissible unless it is voluntary, and the question whether it is voluntary (when raised by conflicts in the evidence-interpolated) must be determined in the first instance by the presiding judge, but the jury must be the final arbiters of such fact." That this is in accord with the weight of authority elsewhere is demonstrated in the annotations in 18 L. N. S. 777, 50 L. N. S. 1078, 85 A. L. R. 870, and 170 A. L. R. 567. Our modern decisions are digested in 85 A. L. R. at pages 895-6 and 170 A. L. R. at page 595. However, the rule is an old one in this jurisdiction. State vs. Kirby, 1847, 1 Strob. 378. The opinion in the case just cited was quoted with approval in State vs. Branham, 1879, 13 S. C. 389, to the effect that a confession is admissible though it is elicited by questions, whether put to the prisoner by a magistrate, officer or private person; and the form of the question is immaterial to its admissibility, [fol. 191] though it assumes the prisoner's guilt. We conclude that there was no error in the admission under the instructions in this case.

Appellant has invoked the protection of the Fourteenth Amendment of the Federal Constitution and asserts that "due process" was denied him by admission in evidence of his oral and written confessions of guilt in view of his version in testimony of the circumstances of the making of them. He relies upon Chambers vs. Florida, 309 U. S. 227, 84 L. ed. 746, 60 S. Ct. 472; Ward vs. Texas, 316 U. S. 547, 86 L. ed. 1663, 62 S. Ct. 1139; Anderson vs. United States, 318 U. S. 350, 87 L. ed. 829, 63 S. Ct. 599; McNabb vs. United States, 318 U. S. 332, 87 L. ed. 819, 63 S. Ct. 608; Ashcraft vs. Tennessee, 322 U. S. 143, 88 L. ed. 1192, 64 S. Ct. 921; and Malinski vs. New York, 324 U. S. 401, 89 L. ed. 1029, 65 S. Ct. 781.

The cited cases have been carefully examined and considered but none controls, for differences in their facts. They involved instances of fear of mob violence, wholesale

arrests without warrants, all-night questioning by relays of officers, proven physical mistreatment, transporting from county to county for questioning, and even torture. The defendants in some of these and similar cases were ignorant and illiterate youths, unlike appellant who is an apparently intelligent young adult. None of the vitiating influences which have been mentioned was present here. Giving the cited decisions the full weight of their unquestioned authority, they are of no aid to appellant.

Incidentally, the *Anderson* and *McNabb* cases, *supra*, are not at all in point for they were reviews of criminal convictions in lower Federal courts and turned mainly upon the violation of a Federal statute by the investigating officers. The case in hand presents features of similarity with that of *Lyons vs. Oklahoma*, 322 U. S. 596, 64 S. Ct. 1208, 88 L. ed. 1481, and appears to come within the rule of it, stated in the opinion as follows: "But where there is a dispute as to whether the acts which are charged to be coercive actually occurred, or where different inferences may fairly be drawn from admitted facts, the trial judge and the jury are not only in a better position to appraise the truth or falsity of the defendant's assertions from the demeanor of the witnesses but the legal duty is upon them to make the decision. *Lisenba vs. California*, *supra*, 314 U. S. page 238, 62 S. Ct. page 290, 86 L. ed. 166."

There is an exception to the court's instructions to the jury for failure to expressly include that if the confession was induced by promise of reward, it was invalid. This position is untenable for the simple reason that there was no evidence of promise of reward so there could have been no inducement of that nature. Appellant in his very full testimony claimed only threats, intimidation and duress. Cited is *State vs. Scott*, 209 S. C. 61, 38 S. E. (2d) 902, where judgment of conviction was reversed because the instructions included the element of hope of reward but omitted fear and duress. There, as here, the evidence of appellant related only to intimidation, duress and physical violence; so the applicable element was there erroneously omitted from the instructions; but not so here. Counsel were not dissatisfied at the time for toward the end of the instructions the court considerately asked appellant's counsel if there were omissions and they suggested none.

It will be noted that certain words of the confession are emphasized in the copy above. This denotes the under-

scoring of these words at some time during the trial. On the point the record on appeal contains the following stipulation: "It is agreed that the pencil underlinings appearing on this exhibit were made by the Solicitor, but neither he nor counsel for defense can recall at what stage of the case or trial they were made. It is also agreed that all exhibits were delivered to the jury upon retiring to consider the case."

In the oral argument of the appeal the Solicitor said that he might have done the underscoring (which was with pen-[fol. 192] cil) for the purpose of his argument of the facts to the jury, or possibly for the purpose of his examination of some of the witnesses, but he could not recall when or for what purpose it was done. Of course, any material alteration of any exhibit introduced in the trial of the case is improper and conceivably could be prejudicial to one party or the other. Granting, however, that the underscoring was done during the course of the trial and existed when the jury took the written confession into their room, along with other exhibits, for the purpose of their deliberation, we cannot think of any manner in which it would be prejudicial to appellant. The most of the underscored words appear to be rather unimportant in the document, the underlining added nothing, and counsel have pointed out no reason or ground for prejudice on this account and have cited no supporting authority. No error is found.

There was other, independent evidence tending to prove appellant guilty, which need not be recounted, such as his presence in the neighborhood of the crime at the time, his possession of the 38 calibre pistol introduced in evidence and his subsequent exchange of it with a friend for another of smaller calibre, his unceremonious leaving of his regular employment and departure from the State within a few days after the homicide, etc. However, it may be added that these circumstances, corroborative though they were of the confession, were probably insufficient in themselves to support the verdict, which was the view of the trial court. Thus the conviction depended upon the confession, and therefore upon its admissibility in evidence which has, accordingly, been considered with utmost care.

The written confession, which has been set out in full, contains details which carry conviction of truth; they could not have been within the knowledge of the investigating officers and they are marks of full disclosure by appellant;

there could have been no point in his or their fabricating these otherwise unimportant details. The confession was rather poorly composed and roughly written but it is easily comprehended that the jury, ordinarily the exclusive fact-finders, concluded that it contained the truth.

Chief of Aiken City Police Sprawls testified that he assisted the County and State officers in their investigation of the crime as the result of which appellant was placed in jail. He was trained in ballistics and fingerprinting. The 38 calibre bullets extracted from the body of the slain man were sent to the F.B.I. laboratory in Washington, as was the pistol; but no report of that agency was introduced. The witness said that rust in a pistol barrel will, if enough, make impossible the identification of a bullet as one fired from that pistol. He testified that he tried to secure fingerprints from the cash drawer in the Bennett store, but because it was made of rough lumber no prints were available; and similar failure was met in efforts to obtain prints from other articles in the store.

During the lengthy crossexamination of Chief State Officer Richardson the trial was interrupted by a most unusual incident. The official stenographer inserted in the record his notation that there was a remark by a spectator which he did not hear, hence it does not appear at that point in the record. Counsel who was conducting the crossexamination stated to the court his objection to "a statement made like that by a spectator in the presence of the jury." The Judge turned to the jury and inquired whether any of them heard the remark. Several replied that they had heard a part of it. Thereupon the Judge directed the sheriff to take the spectator who made the at least partly audible remark and place him in jail, which was done. Thereupon the jury were sent to their room and the examining counsel was asked what he heard, which was only the epithet, but he asked that other spectators be questioned as to what they heard. The offending spectator was sitting at the time of his remark in one of the jury seats opposite and across the court room from those occupied by the trial jury. The court had the nearest other spectator sworn for examination, which the Judge himself conducted. It turned out that this witness was a newspaper reporter who said that he happened to look in the direction of the jailed spectator, who appeared to address his remark to State Officer Long,

sitting behind him, and said, "They shouldn't try a son-of-a-bitch like that." The court then examined Officer Long [fol. 193] who identified the offending spectator as one Floyd who lived near Wagener in Aiken County and was a former State Highway Patrolman; his version of the remark was slightly different but to the same effect as that quoted above.

Appellant's counsel then made a motion for a mistrial upon the ground of the spectator's statement, whether the jurors heard the remark in its entirety or not, which counsel contended deprived the appellant of due process of law. The court ruled as follows, quoting from the record: "Gentlemen, I don't think that I would be warranted in granting the motion. That is a hazard that any trial is subjected to. Of course, as to the Court dealing with the individual is a matter aside from this case. The only thing I can do is what I am going to do, as I understand and conceive it my duty to do and that is to fully instruct that jury, as I am going to do when I bring them back, in reference to that and I asked that jury three times as to what they did hear and they said only the latter part. Some of them said nothing and some said 'the latter part' which was 'a son-of-a-bitch like that' according to the statement. Now of course, as we see it, the outburst of a spectator or bystander is no part of the trial and is not evidence in the case. As I say, that is a hazard that can come up in any trial and I don't believe I would be justified, gentlemen, in declaring a mistrial, on what you heard, Mr. Salley, and as taking the statement as you heard it and as the jury says they heard it, as you say that could have referred to the Court or attorneys or anybody else, as far as that goes. Even taking it at its face value, as heard by Mr. Martin or Mr. Long, who was sitting closer to him than anyone else, I don't think I could be justified even if I concluded that the jury heard all of it. He has no official connection with the case. He is nothing more than any other spectator sitting in the Court room and because some spectator conducts himself in a manner that might be prejudicial, unless I should allow such to continue, I don't believe that I would be justified in granting a mistrial."

Following the foregoing the Judge forthwith plainly instructed the jury when recalled that the remark by the spectator was no part of the trial and that they were under

obligation not to permit it to influence their verdict, which should be founded only on the evidence admitted. This was a proper disposition of the unusual occurrence. It did not warrant withdrawal of the case, in view of the prompt incarceration of the offending spectator and the careful instruction of the jury thereabout. There was wise exercise of judicial discretion.

The subject of the conduct of spectators at trials is treated in 53 Am. Jur. 55 et seq., Trial, Secs. 42 and 43; and our case of State vs. Gens, 107 S. C. 448, 93 S. E. 139, L. R. A. 1918E, 957, is the subject of an annotation in L. R. A. 1918E, 959. Other annotations are found in 12 L. N. S. 98, 12 Ann. Cas. 645 and 121 Am. St. Rep. 514. The authorities are uniform that the conduct of a trial is largely within the sound discretion of the presiding judge and only clear abuse of it to the prejudice of appellant will warrant reversal.

No appeal can be more important than this, which involves capital punishment; and the record has accordingly been closely scrutinized for legal, prejudicial error, which has not been found; and that is the limit of the jurisdiction of this court in such cases. The judge who presided over the trial is recognized as a very able one and no sane jury could have honestly rendered any other verdict than guilty, in view of the confessions.

The exceptions are overruled and the judgment affirmed.

Baker, C.J., and Fishburne, J., concur. Taylor and Oxner, J.J., dissent.

DISSENTING OPINION

OXNER, A.J., (Dissenting):

After a careful review of this record, I am inclined to [fol. 194] think that the only reasonable inference to be drawn from the undisputed facts is that the alleged confession was not freely and voluntarily made. Under my view there is little, if any, other evidence connecting the defendant with this horrible crime. Under these circumstances, I think the grave doubt that exists in my mind as to the admissibility of this confession should, in favorem vitae, be resolved in favor of the defendant. I, therefore, dissent.

Taylor, J., concurs.

[fol. 195] IN THE SUPREME COURT OF SOUTH CAROLINA

[Title omitted]

PETITION FOR REHEARING—Filed February 26, 1948

[fol. 196] To the Honorable Supreme Court of South Carolina:

The defendant appellant, L. D. Harris, by his attorneys, Julian B. Salley, Jr., Leonard A. Williamson, and Dorcey Lybrand, respectfully petitions the Court for a rehearing in the above entitled cause for the reason that it appears from a reading of the opinion that the Court, in passing on Exceptions I and III, overlooked certain testimony and vital principles of law applicable thereto, in that:

The Court held that the purported confession, on which the conviction depends, was not rendered inadmissible by the testimony of Sheriff Fallow to the effect "that if he did not confess, his mother would be arrested or a warrant would be issued therefor.—On further questioning he was asked whether the threat of the arrest of his mother induced the confession and he replied in the negative." We respectfully submit that the record does not support this conclusion. On direct examination appellant was asked (Folio 143) Q. Did that have any bearing or influence on you to make you make that statement?" At this point Solicitor Carter interrupted and the question was not answered. Appellant was then asked (Folio 144). Q. Was there any connection with that statement by Sheriff Fallow about having your mother arrested and your statement to him—your confession? A. No sir—he could have got her. In other words they came over to Columbia one Saturday and I told them to go get her for she didn't do it." Apparently, the Court understood the answer to the last quoted question to be in reply to the first quoted question, which was never answered. A reasonable construction to be placed upon the last quoted question, whether or not so intended by counsel, is viz: Would the subject matter of the confession furnish sufficient basis for a warrant against his mother. The answer given clearly shows that such was appellant's understanding or construction of the question. To conclude that the appellant thereby denied that Sheriff Fallow's threat to place his mother in jail induced him to make the pur-

[fol. 197] ported confession, is to place a strained interpretation upon the questions and the answer to the latter. And, any doubt should be resolved by the Court in favor of the appellant. However, no doubt as to the effect of Sheriff Fallaw's threat should exist in the light of the sheriff's undisputed testimony as to appellant's response to the threat, viz: (Folio 171) "Don't get my mother mixed up in it and I will tell you the truth." The purported confession immediately followed. Certainly, any remaining shred of doubt as to whether or not the threat induced the purported confession, and also whether or not appellant denied such inducement, is removed by his response to cross examination, viz: (Folio 977) "Q. The sheriff kept asking you questions? A. Yes, sir. Q. And you all sat there and smoked some cigarettes? A. Yes, sir. Q. And he treated you nice? A. Well, he forced a statement out of me I didn't know nothing about. Q. Mr. Baker was sitting by the door? A. No, sir. He was leaning over where they take the finger prints. Q. Where was Mr. Long? A. He was out there next to the door. Q. And you finally told the sheriff you wanted to tell it to him by yourself? A. I never told him I wanted to tell I killed them. Q. What did you tell him? A. I told him I done told you all the truth and you all won't believe it and then he talked about swearing out a warrant for my mother. Q. Looked like he would have to swear out a warrant for your mother? A. He never said "looked like"—he said he would. Q. What did you tell him? A. I told him I didn't want him to do that for neither one. Q. But like you said yesterday, that never had any effect on you? A. Well, it did. Q. Well, you deny your statement you made yesterday, for you know you told the Court it didn't have any effect on you? A. I said that at the penitentiary. Q. I am talking about what you said here the other day. A. I ain't said nothing about it here, only thing I told him she was just like me, she didn't know nothing about it."

The Court held that the striking of appellant, by Constable Thompson, before and within twenty-four hours of his making the purported confession, viz: "It would be unreasonable to conclude that the incident induced the confession; certainly, it was sufficient to remove the issue of the voluntary nature of the confession from the province of the jury where it ordinarily belongs, *in such*

cases of conflicting evidence" (emphasis added). Although there is conflicting testimony as to the exact nature of the blow, there is no dispute as to the bald fact that, in the course of the continuous grilling of appellant, Constable Thompson struck him and thereupon said "You are not telling the truth."

It is undisputed that appellant, 25 years of age, an illiterate, unskilled negro day laborer, was held incommunicado from July 14, 1946, the date of his arrest, until October, 1946, when arraigned, in the Aiken County jail and State Penitentiary, without benefit of counsel or friend and without advice concerning his constitutional rights. It is also undisputed that appellant, before making the purported confession, was subjected to various periods of constant grilling by State, County and City officers, in relays, in a small office at the Aiken County jail, and at no time was he advised of his constitutional rights with respect to the effect of a confession by him.

We submit that the methods so used by the officers are at variance with fundamental concepts of fairness and justice. *Haley vs. Ohio*, 92 L. ed. 239 (decided January 12, 1948).

We submit that facts and circumstances of *Lyons vs. Oklahoma*, 322 N.S. 596, 64 S. Ct. 1208, 88 L. ed. 1481, relied upon by the Court, are so different from the undisputed facts in this case, that the portion of the opinion quoted by the Court, is not applicable and should not control. Further, that the portion of that opinion applicable here is, viz: "Where conceded facts exist which are irreconcilable with such mental freedom regardless of the contrary conclusions of the triers of fact, whether Judge or Jury, this Court cannot avoid responsibility for such injustice by leaving the burden of adjudication solely in other hands . . ." Of the [fol. 199] nine elements upon which the conviction in *Lyons vs. Oklahoma*, supra, was affirmed, only one, viz: the lapse of time between the striking of the appellant by Constable Thompson and the purported confession, was present in this case. Also, see *Coker vs. State* (Ga.) 33 S.E. 2nd 171. Assuming that appellant denied that the purported confession was induced by the threat of Sheriff Fallaw to have his mother arrested, we submit that the facts of *Ashcraft vs. Tennessee*, 322 U.S. 143, 88 L. ed. 1192, 64 S. Ct. 921, do apply to this case, since the confession in that case was held inadmissible, in spite of Ashcraft's denial that the acts of the

officers had induced the same. Also, see Lee vs. Mississippi, 92 L. ed 315 (decided January 19, 1948).

We respectfully ask the Court to grant a rehearing.

Respectfully submitted, Julian B. Salley, Jr., Leonard B. Williamson, Dorcey Lybrand.

Aiken, South Carolina.

Dated: February 26, 1948.

The undersigned, being duly licensed and practicing attorneys at law of the Aiken Bar in the State of South Carolina, do hereby certify that we have read the foregoing petition and are acquainted with the record herein, and that there is merit in the grounds set forth in this petition for a rehearing; and that the undersigned are not connected with this case in any manner.

John E. Williams, Louie B. Garvin.

Aiken, South Carolina.

[fol. 200] IN SUPREME COURT OF SOUTH CAROLINA

ORDER DENYING PETITION FOR REHEARING—Filed March 9, 1948

Upon careful consideration of the within petition we find that none of the matters referred to therein was either overlooked or misapprehended by the Court in the preparation of the judgment heretofore filed; hence the petition is denied.

D. Gordon Baker, C. J.; E. L. Fishburne, A. J.; T. H. Stukes, A. J.

We think the within petition should be granted.

C. A. Taylor, A. J.; G. Dewey Oxner, A. J.

[File endorsements omitted.]

[fol. 201] IN THE SUPREME COURT OF SOUTH CAROLINA

[Title omitted]

MOTION FOR STAY

1. The petition of L. D. Harris, leave of the Court having first been obtained, respectfully shows;
2. That on the Eighteenth day of February, 1948, an opinion was handed down by this Court in the above named and styled case, affirming the judgment of the Court of Common Pleas, and which judgment was against petitioner.
3. That petitioner, who is defendant-appellant, being dissatisfied with said judgment desires and intends to file an appeal in said matter or a petition for a writ of certiorari to the Supreme Court of the United States for a review of the judgment therein.
4. For the purpose of perfecting the necessary appeal, it is requested that a stay of ninety (90) days be granted by the Court, and that during that time a remittitur shall not be issued.

Wherefore, defendant-appellant prays that a stay of ninety (90) days be granted as requested herein for the purpose of allowing him to perfect the necessary appeal or petition for writ of certiorari in said case and that during that time a remittitur shall not be issued.

Julian B. Salley, Jr., Leonard A. Williamson, Dorcey Lybrand, Attorneys for Defendant-Appellant.

Petition granted as prayed for.

D. Gordon Baker, Chief Justice.

March 17, 1948.

[fol. 202] IN THE SUPREME COURT OF SOUTH CAROLINA

[Title omitted]

NOTICE OF APPEAL

To the Honorable B. D. Carter, Solicitor of the Second Judicial Circuit, please take notice:

That the defendant-appellant in the above named and entitled cause will file an appeal or a petition for a writ of certiorari in the said matter to the Supreme Court of the United States for a review of the judgment therein, and for the purpose of perfecting the necessary appeal he intends to apply to the Chief Justice of the Supreme Court of South Carolina Saturday, March 13, 1948, at 10:00 o'clock A.M. or as soon thereafter as counsel can be heard, and then and there to apply to said Chief Justice for a ninety (90) day stay of execution in said case for the purpose of perfecting the necessary appeal or petition for writ of certiorari to the Supreme Court of the United States upon the grounds set forth in his motion, a copy of which is hereto attached.

Julian B. Salley, Jr., Leonard A. Williamson, Dorsey Lybrand, Attorneys for Defendant-Appellant.

Due and legal service of the within and foregoing notice and motion acknowledged, and copy received, and all other and further notice is hereby waived.

B. D. Carter, Solicitor, Second Judicial Circuit.

March 12, 1948.

[fol. 203] IN THE SUPREME COURT OF THE UNITED STATES

[Title omitted]

STIPULATION AS TO RECORD

Subject to the Court's approval, it is hereby stipulated and agreed, by and between counsel for the respective parties hereto, that for the purpose of the petition for a writ of certiorari the printed record may consist of the following:

1. Transcript of record in the trial court upon which appeal to the Supreme Court of South Carolina was made.
2. Petition for rehearing before the South Carolina Supreme Court, together with Court's action thereon.

3. Opinion of the South Carolina Supreme Court.

4. Proceedings had before the Supreme Court of South Carolina.

It is further stipulated and agreed that Petitioner will cause the Clerk of the Supreme Court of South Carolina to file with the Clerk of the Supreme Court a complete certified copy of the transcript of the record on appeal in the South Carolina Supreme Court; and in the event that the Petition for Writ of Certiorari is granted, the printed record shall consist of the proceedings in the court below, and such portions of the complete transcript of record on appeal in that court as the parties may designate.

It is further stipulated and agreed that either of the parties hereto may refer to his or their brief to the record filed in the Supreme Court of the United States.

Dorcey Lybrand, Counsel for Petitioner; B. D. Carter, Counsel for Respondent.

May 10, 1948.

[fol. 204] IN THE SUPREME COURT OF SOUTH CAROLINA

THE STATE, Respondent,

vs.

L. D. HARRIS, Appellant

I, J. B. Westbrook, Clerk of the Supreme Court of South Carolina, do hereby certify that the foregoing are true and correct copies of the record now on file in this office, in the above-stated case, consisting of the Transcript of Record; Petition for Rehearing, with the order denying the petition for rehearing endorsed thereon; the opinion of the Court, dated February 18, 1948, which opinion is the final judgment of the Court; the Motion for Stay; the Notice of Appeal; and the praecipe.

J. B. Westbrook, Clerk. (Seal.)

Columbia, South Carolina, May 10, 1948.

[fol. 205] SUPREME COURT OF THE UNITED STATES.

No. 503, Misc.,—October Term, 1947

On petition for writ of Certiorari to the Supreme Court of the State of South Carolina.

ORDER GRANTING LEAVE TO PROCEED IN FORMA PAUPERIS;
GRANTING CERTIORARI, ETC.—June 7, 1948

On consideration of the motion for leave to proceed herein *in forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed *in forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby granted and the case is transferred to the appellate docket as No. 845.

It is further ordered that execution of the sentence of death imposed on the petitioner be, and it is hereby, stayed pending the final disposition of the case by this Court.

Endorsed on Cover: Enter petitioner pro se. File No. 53,075, South Carolina, Supreme Court, Term No. 76, L.D. Harris, Petitioner, vs. State of Sonth Carolina. Petition for writ of certiorari and exhibit thereto. Filed May 11, 1948. Term No. 76 O.T. 1948.

(7140)

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SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1948

No. 76

76

L. D. HARRIS,

Petitioner,

v.s.

STATE OF SOUTH CAROLINA

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF SOUTH
CAROLINA

PETITIONER'S BRIEF

JULIAN B. SALLEY, Jr.,

DORCEY K. LYBRAND,

LEONARD A. WILLIAMSON,

Counsel for Petitioner

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1948

No. 76

L. D. HARRIS,

Petitioner,

vs.

STATE OF SOUTH CAROLINA

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF SOUTH
CAROLINA

PETITIONER'S BRIEF

The Petitioner has seasonably asserted his right under the Federal Constitution to have his guilt or innocence of a capital crime, of which he was convicted and sentenced to death, determined without reliance solely by The State upon a confession obtained by means proscribed by the due process clause of the Fourteenth Amendment to the Constitution of the United States. It is his contention that upon his trial in the Circuit Court, and by the decision of

the Supreme Court of South Carolina, which is the Court of last resort in that State, that the State used an improperly obtained confession against him which resulted in his conviction, and which constitutes a denial to him of due process of law as guaranteed by the Fourteenth Amendment to the Constitution of the United States of America.

The panorama of events which led to his arrest, detention, confession, trial and conviction may be summarized as follows:

The murder of Mr. and Mrs. Edward L. Bennett naturally aroused great and well justified public indignation. For the arrest and conviction of the unknown perpetrator of this crime, a mass meeting was held, at which contributions of money were made and subscribed as a reward for the apprehension and conviction of the guilty party, in the same Court House where the petitioner was later tried and convicted. (P. 38).

Other unsolved crimes of a similar and heinous nature had been committed in the vicinity and coupled with this latest offense, had provoked those charged with the enforcement of the criminal law to the utmost of their abilities to end a crime wave which was sweeping the small community (P. 76).

The Governor's State Constabulary, located at Columbia, South Carolina, designated a special officer in the person of Mr. W. J. Thompson to do nothing else but work with and assist local authorities toward a solution of the crime (P. 44, P. 90).

Thus without any planned scientific investigation, and in the midst of an aroused community, suspects were fastened upon and questioned in an attempt to elicit from them self incriminating admissions (P. 37-P. 112).

Finally, without any justification or probable cause that

the petitioner had committed a murder, but merely upon conjecture, a warrant was issued by the Magistrate at the county seat, charging petitioner with the larceny of a pistol. Almost three months had passed since this terrible crime had been committed, it and the other crimes were still unsolved, and the petitioner was then residing and working at Nashville, Tennessee, in the employ of a Construction Company from whom he had obtained a job at about the same time that the murder was committed. This warrant was mailed to the Law Enforcement Officials at Nashville, Tennessee by Sheriff Fallaw of Aiken County, and by telegram he requested that petitioner be "picked up." In accordance with Sheriff Fallaw's request, petitioner was arrested at Nashville, Tennessee and lodged in jail on Friday, July 12, 1946. Sheriff Fallaw was notified that he had been "arrested" and in company with Mr. W. J. Thompson, the designated State Constable who was doing nothing else but working on the case, he proceeded to Nashville, Tennessee. In the early morning hours of July 14th, at about three o'clock A. M., these two officers went to the Nashville jail and without reading any warrant to him, or informing him as to who they were, they took petitioner from the jail in Nashville, Tennessee and started with him to Aiken, South Carolina. The usual formality involving extradition proceedings was dispensed with, and the record is silent as to the legal proceedings followed in obtaining custody of the petitioner. When the officers arrived at Aiken, South Carolina, they placed him in jail instead of taking the petitioner before the Magistrate who had issued the warrant charging him with the larceny of a pistol. From the time of arrest until he was placed in the dock at the Court House for trial, nearly three months later, he was never officially committed to jail although the Code of Criminal Procedure for the State directed that such should

be done. (S. C. Code 1942, Vol. 1, sect. 907; Footnote #1.) Petitioner was placed in the Aiken County jail on Sunday afternoon, July 14th, 1946, and he was removed from that jail to the State Penitentiary in the early morning hours of Thursday, July 18th, 1946. It was during this period of confinement as related above, that he made the confession, the admission of which at his trial he objected to, and upon which alone he stands convicted and sentenced to death. It was following his confession that he was removed to the penitentiary for fear of violence. An examination of the circumstances surrounding the obtaining of the confession, discloses the following facts: Petitioner was placed in the Aiken County jail on Sunday, July 14th, 1946. In response to a question from Mr. W. J. Thompson, he had previously related the whereabouts of a certain 38 calibre pistol which he had disposed of prior to leaving Aiken County and going to Nashville, Tennessee. The next day, Monday, July 15th, 1946, the officers in consequence of the information given them by petitioner concerning this pistol, located and obtained it where he had informed them it should be. The officers having secured the pistol, petitioner was then subjected to a long "session" of protracted, unremitting questioning, in the nature of an accusation, to the effect that he was the murderer of the Bennetts. On Monday the Sheriff began to question him at length, in the presence of another officer (P. 44). The petitioner denied any knowledge of the crime and was locked in jail. That night the questioning was resumed in the jail in the presence of the Chief of Police, a State Constable and the jailer, and he continued

FOOTNOTE (1)

1942 South Carolina Code of Criminal Procedure, Volume I, Section 907:

"Upon view of a felony committed, or upon certain information that a felony has been committed, or upon view of a larceny committed, any person may arrest the felon or thief, and take him before a judge or magistrate, to be dealt with according to law."

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to deny any knowledge of the crime (P. 45). This questioning and all subsequent questioning, interrogation and accusation of petitioner was conducted in the jail office, which was eight feet by eleven feet in dimensions, and contained a large roll top desk, a flat desk, and three or four chairs as furniture (P. 100). When petitioner asserted on Monday night that he knew nothing of the crime, the Sheriff departed, leaving him to his remaining inquisitors, who continued to question him about this crime, and to whom he continued to deny his guilt (P. 46).

The following day, Tuesday, July 16th, at one or two o'clock in the afternoon, the Sheriff returned to the jail office and resumed the questioning of petitioner, but he denied any knowledge of the crime. It is not clear just how long the questioning had gone on the night before for the Sheriff was unable to say (P. 46). He was questioned in the presence of numerous officers (P. 105) until about 5:30 in the afternoon and denied guilt. The questioning was resumed that night and lasted until about one o'clock on Wednesday morning and Mr. W. J. Thompson, along with the Chief of the State Constabulary, Mr. Richardson, were among the questioners (P. 106). It was during this long vigil of persistent questioning that petitioner "involved" a man named Wylie Bennett (a negro not related to the deceased persons), and the petitioner was questioned, first by one and then another of the officers, but when they all left him on Wednesday morning at one o'clock there was no evidence against petitioner and he had made no self-incriminating statements to the officers (P. 107). All of this questioning was in the nature of an accusation to the effect that he had killed the Bennetts. On Wednesday afternoon, July 18, the Sheriff returned to the jail, and for more than three hours and a half sat in the presence of the defendant while he was being grilled. On this occasion the questioning was being conducted by the Chief of Police of the City

of Aiken and another State Constable who had not been present theretofore (P. 48). These officers were questioning petitioner about the same crime which the Sheriff had accused him of committing and of which he had continued steadfastly to deny his guilt (P. 49).

From Monday afternoon until Wednesday morning the officers through questioning the petitioner had been endeavoring "to find out" what he knew about the crime. They had no independent evidence with which to confront or accuse him. During this inquisition he had been slapped by one of them (P. 87), but he denied and continued to deny his guilt. On the Wednesday afternoon when petitioner was "on the grill" several officers questioned him and the afternoon was hot and he was questioned in relays because it was so warm in the room that it was uncomfortable for his inquisitors to remain in the room for any appreciable length of time (P. 101; P. 111). The officer who had slapped him on Tuesday night became weary with the ordeal and walked out, turning him over to his other inquisitors (P. 110). The community, which was undergoing a crime wave, had had its good name further drenched in blood by an assault and battery with intent to kill a local merchant on the previous Saturday-night, was the active scene of other State Constables who had been dispatched to Aiken to attempt to solve more recent crime, but having failed, now turned from trying to solve the most recent crime to also questioning petitioner (P. 100). There was a relentless questioning of him by the officers, the manner and nature of which is best expressed in the statement of the officer who had slapped petitioner on Tuesday night, when he said on cross examination "that while questioning petitioner he did not think he had made a useless trip to Nashville for him" (P. 99). The Sheriff, on late Wednesday afternoon, after the weary departure from the jail of this small army of Cross Examiners and accusers, once more returned

himself to confront and interrogate and accuse the petitioner (P. 49). It was then that the climax of three days and nights of intense effort to wring a confession from petitioner was reached in the final effort of the Sheriff, when by a most subtle intrusion he offered petitioner the fearsome alternative of either making a confession or self incriminating declaration, or else the Sheriff would arrest his mother, when he declared to the petitioner, "It looks like I will have to swear out a warrant for your mother for transporting stolen property." Immediately thereafter, imploring the Sheriff not to get his mother mixed up in it, the defendant made a confession (P. 49). The Sheriff summoned the Chief of the State Constabulary, and also Mr. Thompson who had previously slapped petitioner, and the Chief of Police of the city, reduced his "confession" to writing which he signed, in the presence of his interrogators, accusers and inquisitors (P. 51).

Thus, lacking one day of a week from the date of his mail order arrest, after being questioned on Monday afternoon, Monday night, Tuesday afternoon, Tuesday night until Wednesday morning, Wednesday afternoon, and again Wednesday evening, the petitioner made a confession, which was later introduced against him upon his trial, and without which he could not have been convicted.

POINT X

At the trial of the petitioner the testimony showed that an examination of the scene of the crime failed to reveal his fingerprints (P. 75). The dying declaration of the murdered man (P. 3) and also the statement of his 3 year old child, the only living eye witness to the crime was to the effect that the murderer was a large man (P. 35). Petitioner is a small man (P. 54). The record fails to show any testimony or evidence, other than the confession, indicat-

ing petitioner's presence in the vicinity of the crime at any time, and affirmatively shows that although the alleged murder weapon and the bullets taken from the bodies of the murdered people were sent to the F. B. I. laboratory at Washington, D. C., the officer who received the report of such examination had no proof the bullets came out of that gun (P. 79). Based upon the foregoing testimony and lack of testimony the presiding Judge instructed the jury "should that confession under your view of the facts and circumstances surrounding the obtaining of it go out of the case; there is not sufficient testimony with it out to render a verdict of guilty against this defendant" (P. 196). Therefore, the sole issue before the Court is whether the confession was made under such circumstances as to render it inadmissible under the applicable decisions of this Court and the due process clause of the Fourteenth Amendment of the Constitution of the United States.

Argument

In the instant case, when motion was made by petitioner to reject the confession as being involuntary, the trial judge said: "*frankly, I was a little bit worried*" (italics added) "until he (petitioner) testified; but from his own testimony, there is no question in my mind, that at this state, it is my duty to rule on it, and I can't, particularly from his own testimony conclude that the statement or alleged statement and confession made by the defendant was obtained by duress or intimidation" (P. 26). When the trial judge stated "*frankly, I was a little bit worried . . .*", it will be noted that such worry resulted solely from the testimony given by the State's witnesses on direct and cross examination, and was not removed until petitioner testified. Under the applicable decisions of the United States Supreme Court, governing the admission of confessions, it is sub-

mited that then and there the trial judge should have ruled the confession inadmissible and should not have waited for petitioner to testify before passing upon the most important phase of the case, namely, the testimony concerning the confession, and upon which, alone, petitioner later stood convicted.

In the instant case the South Carolina Supreme Court held that the confession upon which the conviction stood was not rendered inadmissible by the testimony of Sheriff Fallaw to the effect "that if he did not confess, his mother would be arrested or a warrant would be issued therefore . . . and on further questioning he (petitioner) was asked whether the threat of the arrest of his mother induced the confession and he replied in the negative" (P. 205). It is submitted that the record does not support this conclusion. On direct examination petitioner was asked:

Question: "Did that have any bearing or influence on you to make that statement?"

The Solicitor interrupted and the question was unanswered.

Petitioner was then asked:

Question: "Was there any connection with that statement by Sheriff Fallaw about having your mother arrested and your statement to him—your confession?" (P. 25).

Answer: "No, Sir, he could have got her. In other words they came over to Columbia on Saturday and I told them to go get her for she didn't do it." (P. 26).

Apparently, the Court understood the answer to the last quoted question to be in reply to the first quoted question, which was never answered. A reasonable construction to be placed upon the last quoted question, whether or not so intended by counsel, is viz: Would the subject matter of the confession furnish sufficient basis for a warrant against

his mother. The answer given clearly shows that such was petitioner's understanding or construction of the question. To conclude that appellant thereby denied that Sheriff Fallaw's threat to place his mother in jail induced him to make the purported confession, is to place a strained interpretation upon the questions and the answer to the last one. And, any doubt should be resolved by the Court in favor of petitioner. No doubt as to the effect of Sheriff Fallaw's threat should exist in the light of the Sheriff's undisputed testimony as to appellant's response to the threat, viz: "Don't get my mother mixed up in it and I will tell you the truth" (P. 30). The purported confession immediately followed. Certainly, any remaining shred of doubt as to whether or not the threat induced the purported confession, and also whether or not appellant denied such inducement, is removed by his response to cross examination, viz:

Q. The Sheriff kept asking you questions? A. Yes, Sir.

Q. And you all sat there and smoked some cigarettes? A. Yes, Sir (P. 184).

Q. And he treated you nice? A. Well, he forced a statement out of me I didn't know nothing about.

Q. Mr. Baker was sitting by the door? A. No, Sir. He was leaning over where they take the finger prints.

Q. Where was Mr. Long? A. He was out there next to the door.

Q. And you finally told the Sheriff you wanted to tell it to him by yourself? A. I never told him I wanted to tell I killed them.

Q. What did you tell him? A. I told him I done told you all the truth and you all won't believe it and then he talked about swearing out a warrant for my mother.

Q. Looked like he would have to swear out a warrant for your mother? A. He never said "looked like"—he said he would.

Q. What did you tell him? A. I told him I didn't want to do that for neither one.

Q. But like you said yesterday, that never had any effect on you? A. Well, it did.

Q. Well, you deny your statement you made yesterday, for you know you told the Court it didn't have any effect on

you? A. I said that at the penitentiary. Q. I am talking about what you said here the other day. A. I ain't said nothing about it here, only thing I told him she was just like me, she didn't know nothing about it." (P. 185).

It is further submitted that even had the petitioner actually denied that his purported confession was brought about by the statement of Sheriff Fallaw, such denial does not render the purported confession admissible. In the case of *Ashcraft v. Tennessee*, 322 U. S. 143, 88 L. Ed. 1192, 64 S. Ct. 921, the petitioner therein testified that he had been abused, but such abuse had no effect in forcing an involuntary confession from him, but nevertheless, in view of the methods used to obtain the confession it was held inadmissible and the decision of the State Court sustaining the conviction was reversed. See also *Ward v. Texas*, 316 U. S. 547, 86 L. Ed. 1663, 62 S. Ct. 1139.

The Court held that the striking of appellant by Constable Thompson, before and within twenty-four hours of his making the purported confession, viz: "It would be unreasonable to conclude that the incident induced the confession; certainly, it was insufficient to remove the issue of the voluntary nature of the confession from the province of the jury where it ordinarily belongs, *in such cases of conflicting evidence*" (emphasis added) (P. 212). Although there is conflicting testimony as to the exact nature of the blow, there is no dispute as to the bald fact that, in the course of the continuous grilling of appellant, Constable Thompson struck him and thereupon said "You are not telling the truth" (P. 87).

We submit that facts and circumstances of *Lyons v. Oklahoma*, 322 U. S. 596, 64 S. Ct. 1208, 88 L. Ed. 1481, relied upon by the S. C. Supreme Court, are so different from the undisputed facts in this case, that the portion of the opinion quoted by that Court, is not applicable and should not control. Further, that the portion of that opinion applicable

here is, viz: "Where conceded facts exist which are irreconcilable with such mental freedom regardless of the contrary conclusions of the triers of fact, whether Judge or Jury, this Court cannot avoid responsibility for such injustice by leaving the burden of adjudication solely in other hands" Of the nine elements upon which the conviction in *Lyons v. Oklahoma, supra*, was affirmed, only one, viz: the lapse of time between the striking of the appellant by Constable Thompson and the purported confession, was present in this case: It will also be noted that in the *Lyons* case the accused was removed from the scene of the violence and the presence of the persons who had mistreated him to the penitentiary and into the presence of entirely different people, including the warden, whom he knew: It also appears that after that confession he again confessed to a guard. There was no evidence of mistreatment on either of the last two occasions. In the instant case, petitioner was also removed to the penitentiary but has never admitted guilt of the crime after being removed from the scene of his mistreatment and the presence of those who mistreated him. Also, see *Coker v. State* (Ga.), 33 S. E. 2nd 171.

Assuming that appellant denied that the purported confession was induced by the threat of Sheriff Fallaw to have his mother arrested, which assumption is denied; we submit that the facts of *Ashcraft v. Tennessee*, 322 U. S. 143, 88 L. Ed. 1192, 64 S. Ct. 921, do apply to this case, since the confession in that case was held inadmissible, in spite of Ashcraft's denial that the acts of the officers had induced the same. Also, see *Lee v. Mississippi*, 92 L. Ed. 315 (decided January 19, 1948).

The South Carolina Supreme Court, in affirming petitioner's conviction, had this to say: "Appellant has invoked the protection of the Fourteenth Amendment of the Federal Constitution and asserts that 'due process' was

denied him by admission in evidence of his oral and written confessions of guilt in view of *his version* (italics added) in testimony of the circumstances of the making of them. He relies upon *Chambers v. Florida*, 309 U. S. 227, 84 L. Ed. 716, 60 S. Ct. 472; *Ward v. Texas*, 316 U. S. 547, 86 L. Ed. 1663, 62 S. Ct. 1139; *Anderson v. United States*, 318 U. S. 350, 87 L. Ed. 829, 63 S. Ct. 599; *McNabb v. United States*, 318 U. S. 332, 87 L. Ed. 819, 63 S. Ct. 921; and *Malinsky v. New York*, 324 U. S. 401, 89 L. Ed. 1029, 65 S. Ct. 781 (P. 214). See opinion of South Carolina Supreme Court, *supra*. On the contrary, petitioner relied mainly upon the testimony of the officers, who were the State's witnesses, for the exclusion of the confession, and continues to rely upon their testimony as sufficient evidence for the rejection of the confession, in that it contravenes the guaranty of due process of law as contained in the Fourteenth Amendment of the Constitution of the United States under the applicable decisions of this Court.

In South Carolina, there is no presumption in law that a confession is voluntary; the burden rests upon the State to show that it was voluntary. *State v. Rogers*, 99 S. C. 504; 83 S. E. 971. In South Carolina, the question as to the admissibility of a confession, is addressed in the first instance to the Presiding Judge, but the Jury are the final judges of the fact. *State v. Rogers, supra*. In this case the Presiding Judge passed upon the admissibility of the confession, and sent it to the Jury as the final arbiters of the fact, which resulted in petitioner's conviction. But petitioner urges before this Court, that his conviction resulted from a trial so violative of his Constitutional rights, as to be a denial to him of the guarantee set forth in the Fourteenth Amendment to the U. S. Constitution, in that he was denied due process of law. Although he stands convicted upon the verdict of a Jury of South Carolina, based upon a confession, this Court is bound to make an independent examination

tion of the record to determine the validity of the claim, and just because he has been convicted by a Jury does not foreclose the duty of this Court in making this independent examination. *Ashcraft v. Tennessee, supra.* Petitioner asserts here, that he does not stand convicted upon the commission of mere error in the Courts below, but has suffered a wrong so fundamental that it made the whole proceeding a mere pretense of a trial. *Brown v. Mississippi,* 297 U. S. 278, 80 L. Ed. 682, 56 S. Ct. 461. Under the Fourteenth Amendment, the State of South Carolina is required to conform to these fundamental standards of procedure in a criminal trial. *Chambers v. Florida, supra.* It is not necessary that the methods employed by the State to secure the confession from the petitioner in this case be condoned to uphold the law, for the methods themselves were in violation of law. *Chambers v. Florida, supra.* It is most earnestly contended, that due process of law, preserved for all by our Constitution, commands that no such practices as that disclosed by the record in this case, should send petitioner to his death. *Chambers v. Florida, supra.*

The State of South Carolina, of course, may establish its policy of Constitutional government, but it is limited by the requirements of due process of law, and it is through the guarantee of due process that the State is prohibited from substituting trial by ordeal. Thus, the action of the State, shall be consistent with the fundamental principles of liberty and justice which lie at the base of all our civil and political institutions. *Brown v. Mississippi, supra.* Petitioner asserts that in the case at bar, the trial Court was fully advised by the undisputed evidence of the method employed to obtain the confession. The trial Court knew that there was no other evidence upon which to base conviction. Yet it proceeded to permit conviction and to pronounce its sentence. The proceeding and sentence are void for want of due process, and it was challenged by petitioner,

who seasonably and at every stage of the trial objected to the introduction of the involuntary confession. This challenge was made before the Supreme Court of the state. The federal question was presented, but it is submitted that the Court declined to enforce petitioner's Constitutional right. Thus, having made the challenge, based upon the record, specially set up and claimed, the petitioner now asks that the judgment be reversed. *Brown v. Mississippi, supra.*

In the case at bar, the confession was obtained by duress, intimidation, coercion, threats and the offer of hope or benefit of reward, and having secured a confession by this method, the trial of petitioner thereafter based upon this confession, was a mere pretense, for the state authorities have contrived a conviction based upon a confession repugnant to the law and based upon violence. *Brown v. Mississippi, supra.*

The Sheriff of Aiken County, the Chief of Police of the City of Aiken, the Chief of the State Constabulary of South Carolina, the special officer designated by the State to work on this case together with other Constables, set themselves up as a quasi-judicial tribunal and tried and convicted petitioner in the Aiken County Jail, and in so doing they rendered his subsequent trial before the trial Court and the jury of his peers, a mere formality. *Ashcraft v. Tennessee, supra, Lisenba v. California*; 314 U. S. 219, 86 L. Ed. 166, 62 S. Ct. 280. The prolonged and persistent questioning of petitioner assumed the nature of an Inquisition; and the State and Federal Courts, as well as text writers, have come to consistently apply this name to such practices. *Ashcraft v. Tennessee, supra.* In this case the prisoner from the time of his arrest, until he "confessed" was never represented by counsel and there was never at any time any neutral or impartial person to determine questions between

the officers and the prisoner and so, there was no limit to the range of pressure that could be placed upon him.

The petitioner, who is a young negro in his twenties, had lived his entire life in neighboring towns of South Carolina. It cannot be doubted but that he had great respect and fear of those who held positions of authority. The record discloses the drag net procedure of his arrest for the theft or supposed theft of a pistol, his transportation in the dead of night from Nashville destined for South Carolina where he was later subjected to new surroundings and new people, all of whom were white men, and all of whom were officers of the law. It is undisputed that he later suffered physical violence. He was never arraigned or formally charged. He was held incommunicado without counsel or relatives or friends. He was questioned at will. He was never advised of his rights. It would be absurd to argue that at any time he was given or afforded the choice, freely, to admit, to deny, or to refuse to answer his questioners. He was subjected to circumstances calculated to break the strongest resistance. Monday afternoon, in possession of a .38 pistol which had formerly been in his possession, the officers confronted petitioner—they say what they said to him, he said in his way what was done and what was said—and naturally there is a conflict. Such disputes are always the inescapable consequence of secret inquisitorial practices. Here we have a brutal crime; other crimes have been committed, no one has been brought to justice, and while the Sheriff and Mr. Thompson are in Nashville to get petitioner, another terrible assault and battery is committed in a storehouse in the City of Aiken, where a merchant is shot down. Other officers are sent for, and with petitioner in jail, and no arrests, with secret inquisitorial inner details taking place, quite naturally what is done is weighted against the accused. *Ashcraft v. Tennessee, supra.* He denied his guilt on Monday afternoon; he was questioned on Monday night, for how

long or by whom, has never been clear. He was questioned on Tuesday afternoon; again on Tuesday night, and in an effort to extricate himself, to placate those who were persistently after him and who refused to take "no" for an answer, he tells them about a negro on the Chain Gang. He gave a damaging statement against another man. This did not satisfy his accuser, who weighed 250 pounds (p. 109) and who slapped him and told him he was not telling the truth. Why did this officer not desist at that time? Why did he pursue him further? The answer may be found in his own answer when he said he did not think he had made a trip to Nashville for nothing. Petitioner was questioned again on Wednesday afternoon. Throughout this ordeal of questioning, petitioner had maintained his innocence. It was not until he was confronted by the Sheriff shortly thereafter, when the indirect threat, the indirect promise, the implied threat and the implied promise, to put his mother in jail was made. The promptings of the human heart broke all that was left in him; he confessed, and upon the trial he tried in his illiterate manner to describe how he confessed to the Sheriff, viz: "A. Well whenever he repeated the words and had repeated everything on that occasion, now and he would ask them—he called up Mr. Sprawls first and then he named them things again and asked me wasn't it right and I told him yes, sir. He repeated those words twice." (p. 167).

Can it with propriety be argued that such a confession is voluntary, or that such a statement made under such circumstances, is a confession? Mr. Webster's Dictionary defines the word voluntary as follows: "Unconstrained by interference; unimpelled by another's influence; spontaneous; acting of oneself." Under no stretch of the imagination can it be said that petitioner's statement was a "voluntary" confession. He had been questioned by State, County and Municipal officers who acted in their official capacities—

it was their conduct secretly engaged in which produced this statement. This procedure constituted mental torture worse than any physical beating; for certainly the torture lasted longer. *Coker v. State*, 33 S. E. (2nd) 471. The Fourteenth Amendment, adopted after much debate, incorporated into the Supreme law of this land, an operating and restraining hand upon the state, and in view of the historical setting and the wrongs which called it into being, leads few to doubt that it was intended to guarantee procedural safeguards, adequate and appropriate, then and thereafter, to protect at all times, people charged with or suspected of crime by those holding power of authority over them. No man's life or liberty should or may be forfeited as criminal punishment for violation of law until there has been a charge fairly made and fairly tried in a public tribunal free of prejudice, passion, excitement and tyrannical power. Thus must we obey procedural safeguards, if due process is to be allowed. *Chambers v. Florida*, *supra*. And it must be remembered that a man's Constitutional rights may suffer as much by subtle intrusion as by direct disregard. *Malinski v. New York*, *supra*. It is submitted that to have a man "picked up" in another state, and jailed on the assurance that a warrant will be mailed charging him with a crime; to secure his person from the custody of another sovereignty, transport him 400 miles while handcuffed, throw him into jail, hold him incommunicado during which time he was questioned in relays, coupled with violence upon his person, in the dead of summer in a veritable oven, climaxing this farce and injustice by thereafter referring to this confession as being voluntary when it was obtained following three afternoons and three evenings of questioning, threats of arrest and imprisonment of petitioner's mother, does not conform to procedural standards of due process of law. Especially is this true.

where the result of such conduct, places an American citizen in the electric chair.

It is respectfully submitted that the judgment should be reversed.

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Petitioner,

vs.

STATE OF SOUTH CAROLINA

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF SOUTH
CAROLINA

RESPONDENT'S BRIEF

Statement

At the October, 1946, term of the Court of General Sessions for Aiken County, South Carolina, the grand jury returned an indictment against the petitioner, L. D. Harris, charging him with the murder of one Edward L. Bennett. Whereupon petitioner was forthwith duly arraigned and, being without counsel, Messrs. Julian B. Salley, Jr., Dorsey K. Lybrand and Leonard A. Williamson, attorneys of the Aiken Bar, were appointed by the Presiding Judge

to defend him. The case came on for trial at a special term of said court, convened at Aiken on the first Monday in January, 1947, and resulted in a conviction of petitioner for murder as charged in the indictment (R. 1). A motion to set aside the verdict was made upon grounds stated in the transcript of record, which motion was refused, and the death sentence was accordingly pronounced by the Presiding Judge (R. 199-200).

From this conviction, order denying motion to set aside the verdict and sentence of the court, the petitioner appealed to the Supreme Court of the State of South Carolina. That court considered on the merits all questions raised by the exceptions and, on February 18, 1948, filed its opinion affirming the judgment of the trial court. A petition for re-hearing was thereafter filed and the same was duly considered and denied by said court (R. 201-223).

The case now comes before this court on writ of certiorari to the Supreme Court of South Carolina, granted on petition wherein petitioner invokes protection under the Fourteenth Amendment of the Federal Constitution, alleging that:

"The question involved is whether the admission in evidence of the alleged confession of petitioner, L. D. Harris, was a denial of 'due process' under the Fourteenth Amendment of the Constitution of the United States."

Argument

The contention of petitioner is that the confession of guilt here in question was not voluntarily made by him but was extorted and obtained by the use of physical violence, threats, duress, fear and intimidation, and its admission in evidence, over objection of petitioner, was a denial of "due process" under the Fourteenth Amendment of the Constitution of the United States. Whereas the position and contention of the respondent is that said

confession was freely and voluntarily made by petitioner and was, therefore, properly admissible in evidence upon his trial; and that the trial court and Supreme Court, of the State of South Carolina committed no error in so ruling and holding.

The issue here involved being an intricate and an extremely grave one, we assume the court will examine in detail all the testimony revealed by the transcript of record, and the essential parts thereof having been recited and incorporated in the opinion of the Supreme Court of South Carolina (R. 202-219), we shall not encumber and unnecessarily prolong this brief with a recital and detail discussion of that testimony.

Although the record reveals other evidence, independent and corroborative of the petitioner's confession, we concede that such evidence was not sufficient, without the confession, to prove guilt beyond a reasonable doubt. The trial judge so ruled and accordingly so charged the jury, which ruling was approved by the Supreme Court (R. 213 and 216).

We cannot agree with counsel's deductions and conclusions drawn by them from the evidence, as expressed in their summary of "the panorama of events which led to the arrest, detention, confession and trial" of petitioner (Brief 2-7). While many of the facts recited in their summation are undisputed and conceded, some of the more essential are not.

We agree that the murder of Mr. and Mrs. Bennett aroused well justified indignation and interest on the part of all citizens, worthy of their citizenship in a civilized community, to apprehend and punish the murderer, and as well the murderer of the old negro man Garrett, who had likewise been robbed and shot only a few days previously. Naturally, the officers charged with enforce-

ment of the law—upon whom rests serious constitutional and statutory obligations to discover promptly those guilty of atrocious crimes—were deeply concerned and interested in apprehending the person or persons guilty of these crimes. Therefore, Sheriff Fallaw, with the aid of State Constable Thompson and Chief of Police Sprawls of the City of Aiken, entered upon their task with that end in view, which was their sworn duty to do.

It is true, as counsel state, these officers went about their work "without any planned *scientific* investigation", and so because they had not been scientifically trained in the strict meaning of the term, but, nevertheless, with an honest purpose to seek only the truth and apprehend the guilty. To that end they were necessarily compelled to interview and question many people. And, after months of investigation, they procured information to the effect that petitioner had stolen a pistol from one Annie Brown of the kind and calibre (38-short calibre) used in the shooting of Bennett, and also other information of the departure from the community and the then whereabouts of petitioner. A warrant was thereupon duly issued for the arrest of petitioner, charging him with the crime of grand larceny, and by authority thereof he was accordingly arrested and taken into custody at Nashville, Tennessee, and on the following day, July 14, 1946, Sheriff Fallaw and Constable Thompson brought him by automobile from Nashville to Aiken. These facts are not in dispute. The truth of the charge contained in the warrant was admitted by petitioner (R. 172). Hence, whether or not the officers had information sufficient to justify taking petitioner into custody on the graver crime of murder is immaterial for the reason that the larceny warrant authorized the arrest and return of petitioner to South Carolina to answer to an indictment which might be preferred against him on that charge.

Counsel complain that the warrant referred to was neither read nor the charge contained therein explained to petitioner. It is passing strange, and we might ask, if petitioner had committed no crime in South Carolina, why did he not inquire of the officers the cause of his arrest and their desire for his return to that state? And, as counsel state, the usual formality involving extradition proceedings for the return of petitioner to South Carolina was dispensed with. Petitioner voluntarily signed his waiver (R. 43).

We respectfully submit, therefore, that counsel's assertion that petitioner was arrested, taken into custody and returned to South Carolina without justification or probable cause, but on mere conjecture, is not supported by the evidence but is contrary thereto.

Counsel further assert a violation of state law by the officers in that petitioner was placed in jail upon arrival in Aiken instead of being taken before the Magistrate who issued said warrant, to be dealt with according to law, citing South Carolina Criminal Code, 1942, section 907, which is quoted in footnote on page 4 of their brief. From a casual reading of this section of the Code it will be observed that it is applicable only to cases where the accused is arrested without a warrant for the commission of a felony within the view of the person making the arrest or upon certain information received by such person that a felony has been committed. It has no application here. See recent opinion of the Supreme Court of South Carolina in the case of *State v. Miller*, 211 S. C., 306, 45 S. E. (2d) 23.

But the more important question, in fact the real issue involved, is whether or not petitioner's confession was freely and voluntarily made or obtained by coercion in the manner and by use of the methods claimed by his counsel.

The facts and testimony bearing upon and decisive of this question having been fully discussed and in part incorporated in the opinion of the South Carolina Supreme Court, we shall not restate the same here but merely supplement briefly.

In the first place we would call the court's attention to the fact that the petitioner is not a teen age boy, is not illiterate nor of low mentality; but to the contrary, he is a man twenty-five years of age (R. 190), who can write and read well and possesses a mentality well above the average; and, we submit that, as evidenced by the record, during all of the questioning to which he was subjected in the course of his trial he exhibited a self-possession, coolness and smartness which negatives the idea that he would at any time lose his freedom of thought and action and because of fear make and sign statements against his interest which are not his own.

The petitioner's return to Aiken did not bring him to a strange land, but to the place where he had been reared, worked and resided prior to his departure to Tennessee and where he then had many personal acquaintances, friends and associates.

The first interview of petitioner by officers was by the Sheriff personally at his office, which was for only a few minutes duration. All subsequent interviews and questioning occurred in the jail office, a room approximately 11 x 8 feet in size located at the entrance on the first floor of the jail, and commonly used by lawyers for conferences with clients. These facts are undisputed.

It is conceded that the weather was warm, but, we submit, no more so than is usual in Aiken (lower South Carolina) during the summer months, and that the heat was no more intense in the jail office than in other rooms or places where the petitioner was accustomed to live and work.

It is true petitioner was kept up until approximately one o'clock on Tuesday night. However, this does not mean that he was being questioned from the earlier part of the night until that late hour. Early in the evening he made a statement which in effect charged his friend, Wiley Bennett, with commission of the murder. That statement was reduced to writing and thereafter officer Thompson drove to the chain gang many miles away for Wiley Bennett and brought him back to confront Harris. After a long colloquy between the two, Harris charging Bennett with the crime and the latter denying it, the officers locked them up and left the jail. All of this, of course, consumed considerable time. On Wednesday night petitioner was again kept up until about twelve o'clock, but not because of questioning prior to his confession. As clearly appears from the uncontradicted evidence, Sheriff Fallaw called on him early in the evening and after a very short interview the confession was made. Thereafter considerable time was necessarily consumed in the typing, repeating and reading of this statement to the other officers; all as testified to by Sheriff Fallaw, Chief Sprawls and Constables Thompson and Richardson.

The record reveals that there is a sharp conflict in the testimony pertaining to this issue. As the Supreme Court of South Carolina says in its opinion, "It may be said that all of the officers testified in such manner as to carry conviction that the confession was not the result of fear, intimidation, physical force, punishment or under the influence of any promise of immunity, leniency or other reward." The petitioner testified to the contrary.

Counsel state, however, that they rely mainly upon the testimony of the officers to sustain their contention, insisting that Constable Thompson admits striking petitioner. Referring to statement made by petitioner in which he charged Wiley Bennett with the crime (all officers and peti-

tioner being seated at the time) Thompson's testimony reads thus:

"Q. What did you do when he finished making that statement?"

"A. When he finished making that statement, I got up and slapped him on his shoulder and said, 'I don't believe it.'" (R. 107-108.)

"Q. And you hit him and said, 'Boy, you are not telling the truth?'"

"A. I did not hit him. I put my hand on his shoulder through no malice whatsoever."

This incident occurred Tuesday night before petitioner made his confession to Sheriff Fallaw on Wednesday night following, and Thompson was not present when that confession was made. We submit the finding and holding of the court is fully supported by the record.

Counsel further insist that Sheriff Fallaw's statement to petitioner, relative to issuance of a warrant against his mother for transporting stolen property, justified exclusion of the confession. The Sheriff's testimony as to this is reproduced in the Supreme Court's opinion (R. 30), from which it will be noted that he did not promise petitioner anything and did not threaten to do anything to him. Petitioner does not so claim. Furthermore, in response to his own counsel's questions as to whether this incident influenced him to confess, he answered, "No sir," his testimony therabout being as follows:

By Mr. Lybrand:

"Q. The statement that Mr. Fallaw, the Sheriff made to you about having a warrant issued for your mother — did that influence you to make the confession?"

"A. I told him it wasn't no use. I told him it wasn't no use to have her arrested for something she didn't know about and I didn't either."

"Q. Did that have any bearing or influence on you to make you make that statement?"

The Solicitor: "Don't lead him now."

By Mr. Lybrand:

"Q. Was there any connection with that statement by Sheriff Fallaw about having your mother arrested and your statement to him--your confession?"

"A. No, sir; he could have got her. In other words, they came over to Columbia one Saturday and I told them to go get her, for she didn't do it." (R. 25-26.)

Counsel quote from petitioner's testimony, as given by him before the jury on the following day (Brief P. 10), from which it will be noted that petitioner flatly denied the material portion of the above quoted testimony. "His denial of his former testimony has such a dubious claim to veracity that we lay it aside."

We most respectfully submit, therefore, that the State's testimony relied upon by counsel as being undisputed is too meager and insufficient to support their contention.

The Fourteenth Amendment of the Federal Constitution leaves a state free to adopt by statute or decision such tests of the voluntariness of a confession of guilt as it may elect, whether it conform to that applied in the Federal or in other state courts; but the adoption by a state of the rule of her choice cannot foreclose inquiry as to whether, in a given case, the application of that rule works a deprivation of the prisoner's life or liberty without due process of law.

Brown v. Mississippi, 297 U. S. 378, 80 L. Ed., 682; *Lisenba v. California*, 314 U.S., 219, 86 L. Ed., 166; and *Ward v. Texas*, 316 U.S., 547, 86 L. Ed. 1663.

As hereinbefore shown, petitioner was legally arrested under warrant duly issued upon a charge well founded, was placed in jail and while there held was interrogated concerning the murder here involved. His right to a prelimi-

inary hearing before the Magistrate who issued the warrant, to put the State on proof and determine whether or not he should be released or held for trial in the Sessions Court, is provided for. South Carolina Criminal Code, 1942, section 935.

Counsel complain that petitioner was interrogated by the officers pertaining to the crime of murder while he was confined in jail and no warrant had been issued so charging him. In so doing, we submit, the officers were acting within the law as declared by the Supreme Court of South Carolina. See the recent case of *State v. Miller*, 211 S. C., 306, 45 S.E. (2d.), 23. When petitioner learned that he was charged with the crime of murder, the right was his to demand a preliminary hearing under the Code section above cited and thereby obtain his release if the charge was not proved by the State. Furthermore, he had the right to obtain his release under habeas corpus proceedings as provided by South Carolina law. See Code of Law of South Carolina, 1942, chapter 66.

"It is not necessary to the admissibility of a confession, to whomsoever it may have been made, that it should appear that the prisoner was warned that what he said would be used against him. On the contrary, if the confession was voluntary, it is sufficient, though it should appear that he was not warned." *State v. Miller, supra; State v. Workmen*, 15 S.C., 540.

Referring to the law of South Carolina, governing the exclusion or admission of confessions, and the trial judge's charge to the jury in this case, Mr. Justice Stukes, speaking for the Court, says:

"This was a faithful following of the established rule in this State with respect to repudiated pretrial confessions. Our last, and rather full, authority on the subject is *State v. Miller*, 1947, (211 S.C., 306), 45 S.E.

(2d.), 23, where the general rule is restated from the older cases which are cited, as follows: 'A confession is not admissible unless it is voluntary, and the question whether it is voluntary (when raised by conflicts in the evidence-interpolated) must be determined in the first instance by the presiding judge, but the jury must be the final arbiters of such fact.' That this is in accord with the weight of authority elsewhere is demonstrated in the annotations in 18 L. N. S. 777, 50 L. N. S. 1078, 85 A. L. R. 870, and 170 A. L. R. 567. Our modern decisions are digested in 85 A.L.R. at pages 895-6 and 170 A. L. R. at page 595. However, the rule is an old one in this jurisdiction. *State v. Kirby*, 1847, 1 Strob. 378. The opinion in the case just cited was quoted with approval in *State v. Branham*, 1879, 13 S. C., 389, to the effect that a confession is admissible though it is elicited by questions, whether put to the prisoner by a magistrate officer or private person; and the form of the question is immaterial to its admissibility, though it assumes the prisoner's guilt" (R. 212-215).

We concede that, under the law as declared by this Court in the cases cited by petitioner's counsel:

(a) Where the claim is made of denial of due process in a state court by obtaining a conviction through use of a confession procured by coercion, this Court is bound to make an independent examination of the record to determine the validity of the claim. And,

(b) In ascertaining whether the use of a confession in obtaining a conviction violated and constitutional requirement of due process, this Court will, where the evidence as to the methods employed to obtain the confession is conflicting, accept the determination of the triers of fact as to its voluntary character, unless such determination is so lacking in support in the evidence that to give it effect would work

that fundamental unfairness which is at war with due process.

However, we most respectfully submit, that the testimony and circumstances under which the confession was made in this case are not comparable to the testimony and factual situation which was evident and proven in the cases cited and relied on by petitioner's counsel to sustain their contention.

As stated in the opinion of the South Carolina Supreme Court, "Those cases involved incidents of fear of mob violence, wholesale arrests without warrants, all night questioning by relays of officers, proven physical mistreatment, transporting from county to county for questioning and even torture. The defendants in some of these and similar cases were ignorant and illiterate youths, unlike appellant who is an apparently intelligent young adult. None of the vitiating influences which were mentioned were present here." And we might add, that the recent case of *Haley v. State of Ohio*, 92 L. Ed. 239, the latest case on this subject with which we are familiar, likewise has no application here. For in that case the accused was a mere boy fifteen years of age and the facts there reported differ materially from the facts of this case.

Assuredly, we submit, the cases of *Chambers v. Florida*, 309 U. S., 227, 84 L. Ed. 716; *Brown v. Mississippi*, *supra*; *Ashcraft v. Tennessee*, 322 U. S., 143, 88 L. Ed. 1192; and *Malinsky v. New York*, 324 U. S., 401, 83 L. Ed. 1029, so often recited and insistently relied on by counsel, have no application here. We unhesitatingly state that, if the facts of this case were similar or had any ear-marks to the facts revealed by this Court's opinions in those cases, it would have never reached this Court. And so for the reason that a directed verdict for the petitioner would have been granted on our own motion.

The South Carolina Supreme Court finds and holds that the case of *Lyons v. Oklahoma*, 322 F. S., 596, 88 L. Ed. 1481, is here applicable; and in so finding and holding, we respectfully submit, there was no error. As said by the Court in that case: "But where there is a dispute as to whether the acts which are charged to be coercive actually occurred, or where different inferences may fairly be drawn from admitted facts, the trial judge and the jury are not only in a better position to appraise the truth or falsity of the defendant's assertions from the demeanor of the witnesses but the legal duty is upon them to make the decision. *Lisenba v. California*, *supra*, 314 U. S. page 238, 62 S. Ct. page 296, 86 L. Ed. 166."

Quoting the words of Mr. Justice Frankfurter, as expressed in his concurring opinion in *Haley v. State of Ohio*, *supra*, "this Court's reversal of a State court's conviction for want of due process always involves a delicate exercise of power."

The petitioner has had a fair and impartial trial before a learned and conscientious judge who, with exceeding care, safeguarded petitioner's rights in every phase of his trial. He was adjudged guilty by a jury. He was represented upon his trial, in the Supreme Court of South Carolina, and now in this Court, by three experienced lawyers who have discharged their duty with exemplified zeal, skill and ability.

Upon appeal, the Supreme Court of South Carolina has affirmed the conviction and judgment of the trial Court, Mr. Justice Stukes, a very able, exceedingly careful and most conscientious jurist, saying in the closing sentence of the opinion: "The judge who presided over the trial is recognized as a very able one and no sane jury could have honestly rendered any other verdict than guilty, in view of the confessions."

For the reasons aforesigned and upon the record herein,
we respectfully submit that the judgment of the Supreme
Court of South Carolina should be affirmed.

Respectfully submitted,

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